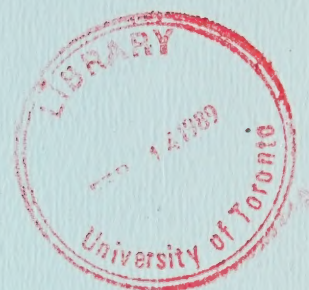


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ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 66

DATE: Thursday, February 2nd, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member

FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Thursday, February 2nd,
1989, commencing at 8:30 a.m.

VOLUME 66

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH)	RESOURCES
MS. K. MURPHY)	
MS. Y. HERSCHER)	
MR. B. CAMPBELL)	MINISTRY OF ENVIRONMENT
MS. J. SEABORN)	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN)	ASSOCIATION and ONTARIO
MS. E. CRONK)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY)	ASSOCIATION
MR. J. WILLIAMS, Q.C.	ONTARIO FEDERATION OF
	ANGLERS & HUNTERS
MR. D. HUNTER	NISHNAWBE-ASKI NATION
	and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MR. P. SANFORD)	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD)	POWER & PAPER COMPANY
MR. D. MacDONALD	ONTARIO FEDERATION OF
	LABOUR
MR. R. COTTON	BOISE CASCADE OF CANADA
	LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES)	ASSOCIATION
MR. R. EDWARDS)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD)	

APPEARANCES: (Cont'd)

MR. J.W. ERICKSON, Q.C.) MR. B. BABCOCK)	RED LAKE-EAR FALLS JOINT MUNICIPAL COMMITTEE
MR. D. SCOTT) MR. J.S. TAYLOR)	NORTHWESTERN ONTARIO ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL) MR. S.M. MAKUCH)	GREAT LAKES FOREST
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. D. COLBORNE	GRAND COUNCIL TREATY #3
MR. R. REILLY	ONTARIO METIS & ABORIGINAL ASSOCIATION
MR. H. GRAHAM	CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY
MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON

(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO
TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
SCOPING SESSION.....	11207
 <u>WILLIAM JOHN STRAIGHT,</u> <u>R. DAVID SCOTT,</u> <u>PETER J. McNAMEE, Resumed</u>	 11239
Continued Cross-Examination by Mr. Williams	11249

(v)

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
390	Page 242 of Witness Statement for 11276 Panel No. 1.	
391	Fisheries Atlas dated July, 1984.	11295

1 ---Upon commencing at 8:35 a.m.

2 THE CHAIRMAN: Good morning. Please be
3 seated.

4 Ladies and gentlemen, we want to commence
5 first thing this morning with the scoping session
6 relative to Panel 10's evidence and, as I indicated
7 yesterday, this is one of the first panels to deal with
8 some of the issues concerning specific activities, in
9 this case, harvesting.

10 And both the Board, and I am sure most of
11 the parties, want to hear a good deal of evidence on
12 these issues. So that with respect to being able to
13 arrive at a lot of consensus about some of these issues
14 which do not have to be addressed orally at the hearing
15 itself, I do not think we are going to be perhaps as
16 successful as we might have been with some of the other
17 panels.

18 But looking through the statement of
19 evidence, which is effectively the statement of issues
20 of the applicant, the Ministry - this is the one which
21 is the redraft dated November 6th - there are a number
22 of paragraphs which we can deal with in terms of the
23 ones that have been taken out of this panel and put
24 into, effectively, Panel 9.

25 Dealing with these items first -- and

1 this was a result of the Ministry forwarding a letter
2 to all of the parties dated the 19th of January
3 indicating that Mr. Armson would be dealing with
4 certain matters in Panel 9's evidence and effectively
5 take them out of 10.

6 The paragraphs I am referring to,
7 according to my notes, are paragraph 23 - I am reading
8 from the statement of issues dated November 6th -
9 paragraph 23, paragraph 24, paragraph 25, 26, 27, and
10 paragraph 28, and also paragraphs 46, 47, 49 and 50.

11 And if our understanding is correct, Mr.
12 Freidin, these items will be dealt with in Panel 9 and
13 will, therefore, not be dealt with in Panel 10; is that
14 correct?

15 MR. FREIDIN: I can't answer your
16 question, I have misplaced my copy.

17 All right. From 23 to 28, and in
18 relation to 46, Mr. Armson will take the nutrients or
19 sedimentation or erosion to the edge of the water, he
20 won't talk about what happens when it gets into the
21 water.

22 THE CHAIRMAN: Okay. What about 47, 49
23 and 50?

24 MR. FREIDIN: The same comment.

25 MS. SWENARCHUK: Could you repeat that

1 comment, please?

2 MR. FREIDIN: I am sorry?

3 THE CHAIRMAN: Could you just repeat the
4 comment, some of the parties didn't catch your original
5 comment.

6 MR. FREIDIN: Well, whether we are
7 talking about nutrients or whether we are talking about
8 erosion, those are two matters which give rise to
9 concern if those things reach water bodies.

10 Mr. Armson will talk about how those
11 nutrients can move from a site through groundwater or
12 how erosion can occur and leave the site where the
13 activity has occurred, but he will not be talking about
14 the effect of that on the aquatic environment; Dr.
15 Allen will speak to that.

16 THE CHAIRMAN: So that will be covered in
17 Panel 10?

18 MR. FREIDIN: Yes. The same comment goes
19 for 49 and 50. For instance, in 50 Mr. Armson will
20 talk about how harvesting may affect the acidity of
21 soil; he will not be talking about how it may affect
22 water, in particular, the aquatic environment.

23 THE CHAIRMAN: Very well. Again, going
24 back to the statement of evidence for Panel 10 dated
25 November 6th, paragraphs 58 through 63 will not be

1 dealt with orally at the hearing. The CVs are appended
2 to the witness statement and unless anybody has any
3 challenge to the manner in which the applicant wants
4 the witnesses qualified, we will not be dealing with
5 those paragraphs.

6 MR. WILLIAMS: I am sorry, Mr. Chairman,
7 just a clarification then. Where does that leave us
8 with regard to 46, 47, 49 and 50, they are back in 10?

9 THE CHAIRMAN: They are back in 10 with
10 respect to the aquatic environment, but they are going
11 to be --

12 MR. WILLIAMS: They will be discussed in
13 both panels?

14 THE CHAIRMAN: Well, effectively, yes,
15 but Mr. Armson will also deal with the issues up to the
16 water line in Panel 9.

17 Now, with respect to the other
18 paragraphs, we have made a compilation of the comments
19 contained in the statements of issue filed by the other
20 parties, and it appears to us that there are a few
21 paragraphs upon which there appears to be no dispute.

22 I am just going to deal briefly with
23 those paragraphs. When I say that, the parties
24 indicated that they did not intend to cross-examine on
25 these particular paragraphs, so we took that to mean

1 effectively that there was no dispute with the
2 statements made in those paragraphs.

3 These are paragraph No. 3 - and I will
4 just read out the numbers of the paragraphs and then if
5 there is any comments with respect to any of them we
6 can take them individually - paragraph No. 3, paragraph
7 No. 7, 9, 22, 29, 31 and 33.

8 At least some of the parties indicated
9 that they wish to cross-examine on each of the other
10 paragraphs that we have not already covered.

11 MR. CASSIDY: Mr. Chairman, there is one
12 paragraph, which is paragraph 29 which although my
13 client has indicated that it does not intend to
14 cross-examine, my client also feels that further oral
15 explanation may be warranted and I simply leave that
16 with my friend Mr. Freidin.

17 And in the event that he does not give
18 further oral examination by way of his witnesses, I may
19 have some questions on the effects of -- or the
20 site-specific nature of running a compaction because
21 that is an important matter from my client's
22 perspective.

23 THE CHAIRMAN: Thank you, Mr. Cassidy.

24 What we are trying to indicate here is,
25 with that last list of numbers, is not that there won't

1 be any oral evidence on it, but that the parties in a
2 preliminary fashion took a look at the issue and
3 decided they really didn't want to cross-examine on it.

4 We do expect on most of these paragraphs
5 that there will be some oral evidence on it and, in any
6 event, I think the Board wants to hear fairly complete
7 evidence on this particular panel because these issues
8 I think are starting to go to the crux of the
9 application that's before us and all of us want to have
10 as much and complete information as possible.

11 Now, once again, going through the
12 compilation that we made of the various statements of
13 issue filed by the other parties, many of them
14 indicated that they did not require further oral
15 evidence from what was set out in the witness
16 statement.

17 But I take it, Mr. Freidin, that you are
18 going to address, through Mr. Armson and any others
19 that might be on that panel, many of these issues
20 orally in any event?

21 MR. FREIDIN: Yes.

22 THE CHAIRMAN: And, as I mentioned, the
23 Board would not have any objection to that, certainly
24 in connection with these issues.

25 Where there doesn't appear to be any kind

1 of major dispute, I take it you will tailor the oral
2 evidence in such a fashion that you don't have to go
3 into it to the extent that you would in terms of the
4 issues which are in dispute?

5 MR. FREIDIN: That's right. And I think
6 in relation to some issues I am just going to perhaps
7 have the witnesses make a passing comment on them.

8 THE CHAIRMAN: And I think Mr. Armson
9 will be cognizant of any of the evidence that he has
10 previously given and attempt not to repeat it, unless
11 he feels it is necessary for the issues to be dealt
12 with in this particular panel.

13 Again, it is not the Board's intention
14 with this panel to go through the statements of issue
15 paragraph-by-paragraph other than what we have
16 mentioned at this point because, again, we want a full
17 picture of the issues covered by this panel.

18 Do any of the parties have any comments
19 with respect to some of the paragraphs that we have
20 dealt with?

21 (No response)

22 Mr. Freidin?

23 MR. FREIDIN: I would appreciate some
24 clarification of the point being made by the Ministry
25 of the Environment in relation to our paragraph 13.

1 MR. CAMPBELL: Mr. Chairman, I think on
2 that matter we have been concerned about the question
3 of identification of the values to be protected in the
4 forest, both from an environmental protection point of
5 view and from a non-timber values point of view.

6 And all this question is aimed at is
7 simply asking whether we are correct that, because the
8 operations which typically take place in the Great
9 Lakes/St. Lawrence Forest are more manpower intensive;
10 that is, it isn't a large clear cut -- it tends not to
11 be large clear cuts, more selection cutting, et cetera,
12 as pointed out in that paragraph, that the simple fact
13 of having more people out on the land in a more
14 manpower intensive way makes it more likely that MNR
15 folks will identify the particular features or values
16 which are present in those areas. And it is no more
17 complicated than that.

18 If I could speak just generally to the
19 witness statement for a moment. Mr. Chairman, we
20 understand and appreciate Mr. Freidin attempting to
21 consolidate evidence back to Mr. Armson's appearances.
22 I would just like to note, however, that we will be
23 throughout the activities panels attempting to relate
24 the general theory of nutrient cycling, ecological
25 concepts that Mr. Armson is speaking to, and hydrologic

1 cycling to the question of how those considerations are
2 actually incorporated into on-the-ground
3 decision-making and I just don't want my silence to be
4 taken as giving that up.

5 Those kinds of considerations will come
6 up in each of the activities panels and I think it is
7 useful though to have a general understanding through
8 Mr. Armson's evidence.

9 MR. FREIDIN: I am just wondering, I
10 don't recall that it is our evidence that operations in
11 one forest as opposed to another is different in terms
12 of manpower intensity. Am I correct that that is your
13 understanding and that's the position you will be
14 taking?

15 MR. CAMPBELL: Well, we have just
16 understood that, that selection cutting and the smaller
17 cut size, et cetera, would tend to be a more expensive
18 method of harvest and we have assumed that that is
19 because of higher labour costs associated with it,
20 reduced degree of mechanization, various factors of
21 that type.

22 If we are correct and, in fact, there is
23 no manpower difference between the two, that would be
24 very useful to know because it will certainly give us
25 some flexibility in terms of practical proposals for

1 boreal harvesting, but we understand it to be the other
2 way around. If we are wrong, we will be pleased to be
3 corrected.

4 MR. FREIDIN: That's helpful to me.

5 THE CHAIRMAN: Thank you.

6 Mr. Campbell, with respect to your
7 comments that you raised in the first instance, I think
8 the Board wants to advise all of the parties that it
9 will be allowing a fairly wide latitude in terms of
10 cross-examining any of the panels dealing with specific
11 activities because we fully realize that a lot of the
12 theory that we learned in the earlier panels, in order
13 to have a lot of relevance to what is before this
14 Board, has to be applied to specific activities.

15 And the Board, as well, is interested in
16 how much of what we have learned to this point is
17 applied to the activities of harvesting, road building,
18 that kind of thing. So that is certainly an area, as
19 far as the Board is concerned, the parties will have
20 fairly free reign to question the panels dealing with
21 the specific activities in terms of going back
22 sometimes to some early evidence and asking those
23 witnesses how those theories about which we have heard
24 are actually applied on the ground and in the field.

25 MR. CAMPBELL: That's very helpful, Mr.

1 Chairman, thank you. It will certainly help us in
2 planning both our Panel 9 cross-examination and the
3 cross-examination on the activities panels.

4 THE CHAIRMAN: Right. And, Mr. Freidin,
5 the Ministry should be on notice that we do expect that
6 the witnesses put forward on these specific activity
7 panels will be in a position to answer how a lot of the
8 information that we have received to date is in fact
9 applied in connection with those specific activities.

10 So we hope that we won't be met with
11 statements to the effect that these witnesses cannot
12 answer those kinds of questions and we should have
13 asked the generalist earlier, when earlier we were told
14 that we should ask the people dealing with the specific
15 activities later.

16 The chicken and egg routine, I think, has
17 got to end with these panels coming up.

18 MR. FREIDIN: Time to take the egg out of
19 the water.

20 THE CHAIRMAN: Any more comments in terms
21 of any of the specific paragraphs?

22 Does anyone else need any clarification
23 of what the Ministry has stated, or does the Ministry
24 need any clarification of any of the matters put in
25 issue by the other parties?

1 MR. FREIDIN: Yes.

2 THE CHAIRMAN: Okay.

3 MR. FREIDIN: Not very many. In relation
4 to Ontario Federation of Anglers & Hunters, on page No.
5 4, right at the bottom, additional issues, the words
6 state:

7 "That cuts that come from a site until no
8 trees can be supported due to nutrient
9 loss."

10 I have -- I am not too sure I understand that correctly
11 and would like some clarification as to whether the
12 Ontario Federation of Anglers & Hunters is suggesting
13 that harvests -- repeated harvests at rotation on more
14 than one occasion into the future is somehow going to
15 result in a loss of nutrients such that trees won't
16 grow in that area anymore.

17 And if that's not what they meant, what
18 do they mean by that?

19 MR. WILLIAMS: Mr. Chairman, that was the
20 intent. We noticed unfortunately after this had gone
21 out the grammatical imperfection of the sentence and it
22 did read clumsily, but that was the intent.

23 MR. FREIDIN: Is there information that
24 you have that that is the case, or is it that just
25 something you are sort of speculating about and would

1 like to comment on?

2 MR. WILLIAMS: We felt that it was an
3 issue that required further specification.

4 THE CHAIRMAN: No, but are you going to
5 be producing -- are you going to be referring to any
6 specific evidence that would support that proposition,
7 or are you asking only the Ministry to give you their
8 views on that issue?

9 MR. WILLIAMS: The latter, Mr. Chairman.

10 THE CHAIRMAN: Very well.

11 MR. FREIDIN: We have some difficulty
12 with the next one in that Mr. Hunter is not here, the
13 questions arising from the statement of issues of
14 Nishnawbe-Aski Nation. I guess we could start at the
15 bottom of the first page, the bottom paragraphs 10 and
16 11.

17 As you are aware, Mr. Chairman, the
18 Ministry's evidence to date has indicated that one
19 method of addressing some of the concerns of the native
20 community is by -- those concerns are addressed by the
21 Ministry addressing the concerns of various
22 stakeholders who carry out certain activities, whether
23 they are hunting or fishing. And to the extent that
24 those general concerns are addressed, the similar
25 concerns of native peoples who engage in those specific

1 activities are addressed.

2 But there is reference here to native
3 concerns or native concerns factored into the
4 determination of the use, and throughout the material
5 there is reference to native concerns. I would like
6 some clarification of what are the specific native
7 concerns that are being referred to and that which this
8 particular party would like to have the proponent
9 address. And I would ask whether or not these native
10 concerns, once they advise us what they are, are the
11 same everywhere in a general context.

12 Answers to those kinds of questions would
13 make it much easier to respond to specifics as opposed
14 to a general phrase like native concerns which is
15 undefined.

16 THE CHAIRMAN: Ms. Palowski, would you be
17 in a position to provide that kind of information?

18 MS. PALOWSKI: I would like clarification
19 from Mr. Freidin. Which other issues is he referring
20 to, just 10 and 11 or is that...

21 MR. FREIDIN: 14, I guess, 16, 38. In
22 38, for instance, in subparagraph 2, it speaks of:

23 "Using moose and deer as featured species
24 does not allow for a determination of the
25 full range of habitat requirements of

1 other species which are important to
2 native communities."

3 Are there some specific species that are of concern, or
4 are we just talking generally of other species, for
5 instance?

6 "Does MNR..."

7 -- in paragraph 40:

8 "...give consideration in timber
9 management planning to the species which
10 are used by native communities. Are they
11 the same for all communities."

12 Are there specific species that you can identify?

13 Paragraph No. 40, for instance, in
14 subparagraph 2:

15 "When native communities have identified
16 concerns involving species of particular
17 interest to them, how does the Ministry
18 use this information in taking its
19 decision in respect to harvest."

20 If we had a discovery, I would want to know -- in order
21 to address that concern, to know: Are there specific
22 situations where in fact native communities have
23 identified specific concerns so that we can indicate
24 whether they have been addressed and, if so, how.

25 Paragraph 44 refers to native interests

1 in wildlife. What does that mean?

2 In relation to paragraph 54, is this
3 particular party taking the position that there are
4 large negative and long-term effects and, I take it
5 from the question, suggesting detrimental effects from
6 timber management and, if so, what are they?

7 THE CHAIRMAN: Is that all, Mr. Freidin,
8 with respect to that?

9 MR. FREIDIN: Yes, that is it.

10 THE CHAIRMAN: Ms. Palowski, I do not
11 know if you are in a position to provide any of those
12 answers at this time but, if you are, fine.

13 If not, I would ask you to request Mr.
14 Hunter to give consideration to providing, to the
15 extent that he can, some of this information to the
16 Ministry because I think that will allow the Ministry
17 to be in a better position to answer the specific
18 concerns of Mr. Hunter's clients and that particular
19 interest group.

20 I think we want to stay away, in this
21 panel and succeeding panels, as much as possible from
22 generalized answers. We want to get down now to the
23 specifics and I think it will really help all of the
24 parties if their actual concerns, with respect to
25 specifics, are known to the Ministry so that they can

1 at least provide whatever answers they wish to provide
2 and that will better allow the other parties to
3 identify whether or not their concerns have in fact
4 been answered.

5 If they have not been answered, then they
6 can certainly indicate either through cross-examination
7 or in calling their own evidence where the
8 deficiencies, if any, are. That will be, of course,
9 helpful to the Board in the end result because once we
10 have a much better handle on what the specific concerns
11 are and what the responses to those concerns are, we
12 will be in a much better position to fashion a decision
13 which addresses those concerns.

14 So I think I would ask all of the parties
15 not to think of this proceeding in the normal litigious
16 context where the element of surprise is of any value.
17 I do not think in this type of proceeding it really is.
18 We are not looking to spring something on one of the
19 parties so that they are put into a position where they
20 cannot answer it, if in fact there is an answer that
21 can be provided which, in fact, addresses the concerns.

22 So I don't think it is fair, since Mr.
23 Hunter isn't here, for you not to have to provide that
24 kind of information now and he will be here next week.
25 So perhaps if you put to him the questions, he can

1 consider whether or not he is in a position to give any
2 further information.

3 We will not be reaching Panel 10 next
4 week, in any event, and there will be sufficient time I
5 think, Mr. Freidin, for Mr. Hunter to provide those
6 answers to be of some assistance.

7 Anything further?

8 MR. FREIDIN: Yes, just one matter. If I
9 can just respond to your indication that you would
10 expect the people in the activity panels to be able to
11 deal with questions or deal with the issue as to how
12 the information which has preceded them actually gets
13 used and is applied.

14 THE CHAIRMAN: Within their areas of
15 expertise.

16 MR. FREIDIN: Right. Those matters will
17 be addressed in evidence-in-chief, but not extensively.
18 Having regard to the large number of situations, the
19 permutations and combinations which can occur, I think
20 a lot of the concerns that people may have about what
21 would you do in this kind of situation, that counsel
22 should, wherever possible, have specific factual
23 situations in mind that they can put to the witnesses
24 and then ask the witness: What would you do in that
25 situation or what would you consider in that situation.

1 Because otherwise we would have a panel
2 which would actually have to somehow, in terms of
3 specific situations, be guessing and we will be here
4 for a very long time.

5 So I realize there is obviously an
6 interest in this panel and the other ones to follow. I
7 just think that if there is going to be a difficulty in
8 terms of the detail, that's where it is going to come
9 because I do not intend to be anticipating every
10 factual situation and asking: What would you do in
11 this case, what would you do in that case.

12 THE CHAIRMAN: I do not think you can be
13 expected to do that. But, by the same token, in
14 cross-examination the parties will be allowed to ask
15 anything they want virtually and raise any potential
16 factual situation they can and the witnesses will be
17 expected to respond, to the extent of their expertise.

18 MR. FREIDIN: Right. I just wanted to be
19 clear that that's the way I saw it going as well.

20 THE CHAIRMAN: Okay.

21 MR. FREIDIN: And one matter which is
22 related to that - and it doesn't really deal
23 specifically with Panel No. 10 - as I understand the
24 discussion at the end of yesterday, Mr. Williams was
25 one-third of the way through his cross-examination

1 which is going to take us well into next week.

2 It does not appear to me, seeing that the
3 Ministry of the Environment, Mr. Hunter and Mr.
4 Colborne have to cross-examine in addition to Mr.
5 Williams finishing next week, that it is likely that we
6 are going to finish Panel No. 8 next week except
7 perhaps for a very short period of time.

8 Having regard to that, No. 1, I would
9 like to add to that -- where I am coming to is I have a
10 suggestion as to when Panel 9 should start, I am going
11 to say they should start the week after next.

12 Mr. Armson is unavailable and he has been
13 unavailable to me since the beginning of this week. I
14 would like the opportunity, obviously, to take some of
15 the scoping questions and discuss those with him. I
16 wouldn't have an opportunity to do that if, in fact, he
17 jumps into the stand the minute Panel 8 is over.

18 One counsel has indicated to me that in
19 relation to Mr. Armson's evidence that an opportunity
20 to review and consider the answer to the Flowers
21 undertaking, the clear cut policy and the history of
22 the clear cut policies and Mr. Armson's response, that
23 some time to in fact consider that and take
24 instructions would be desirable.

25 So what I am suggesting, for all of those

1 reasons, I would request of the Board that Panel No. 9
2 not commence until the week after next.

3 One other counsel had mentioned to me a
4 scheduling problem they had about having lawyers here,
5 perhaps on Thursday. But primarily for the three
6 reasons I have indicated, I would request that Panel 9
7 will be dealt with in the fashion that I have
8 suggested.

9 THE CHAIRMAN: So what does that do to
10 the other part of the proposal of yesterday that we
11 start on Tuesday?

12 MR. FREIDIN: I don't think that affects
13 us starting on Tuesday. I think if we start on
14 Tuesday...

15 THE CHAIRMAN: And complete -- Mr.
16 Williams, having the rest of today effectively, would
17 you be complete on Tuesday?

18 MR. WILLIAMS: Mr. Chairman, it was my
19 intention today to ask that, if at all possible, all
20 other matters be dealt with so that we would have
21 Wednesday available to us.

22 And it is conceivable, Mr. Chairman - and
23 I do apologize for our miscalculation on the time - but
24 as more questions are asked it leads to others and I
25 think that our cross-examination will be extended

1 possibly into Thursday if we have Wednesday available
2 to us and let the other...

3 THE CHAIRMAN: Sorry, let me just get
4 this straight. Are you suggesting that you will not be
5 cross-examining on Tuesday but you would start on
6 Wednesday again?

7 MR. WILLIAMS: Yes, Mr. Chairman. I
8 understood that Mr. Hunter and Mr. Colborne will be
9 here on Tuesday so we weren't anticipating that we
10 would be on on Tuesday.

11 THE CHAIRMAN: I see. Okay. So you
12 don't mind being interrupted by those two parties.

13 MR. WILLIAMS: Not at all. In fact,
14 we...

15 THE CHAIRMAN: Okay. Well, Mr. Hunter is
16 certainly scheduled for Tuesday afternoon and Mr.
17 Colborne is also scheduled for Tuesday afternoon, both
18 of them could be completed that day without any
19 trouble, it appears. You would commence on Wednesday
20 again and you think you would probably go into
21 Thursday.

22 Now, would that not allow the Ministry of
23 the Environment to complete their cross-examination on
24 Thursday?

25 MR. WILLIAMS: I am not sure how much

1 time Mr. Campbell had indicated he needed or Ms.
2 Seaborn...

3 MS. SEABORN: Mr. Chairman, I think we
4 had indicated that we would need about two hours to
5 half a day for cross-examination. There is also the
6 issues of interrogatories that Mr. Campbell had wanted
7 to address that I will be addressing as well, but I
8 still think half a day would be the longest, even
9 including the interrogatories.

10 THE CHAIRMAN: We certainly do not want
11 to get into a position where we are not finished this
12 panel next week so that we cannot start Panel 9 the
13 following week.

14 So, again, Mr. Williams, it really boils
15 down to a fairly accurate estimate on your part as to
16 whether you will finish, allowing the Ministry a couple
17 of hours -- sorry, the Ministry of the Environment a
18 couple of hours and then re-examination for Mr. Freidin
19 which may be a couple of hours.

20 MR. WILLIAMS: I had understood that the
21 Ministry of the Environment was going to deal with that
22 interrogatory issue on Tuesday as well, so that...

23 MS. SEABORN: Well, we could, Mr.
24 Chairman, if there is time. I am prepared to go ahead
25 with whatever is convenient for the Board on Tuesday.

1 If Mr. Hunter and Mr. Colborne are finished before...

2 THE CHAIRMAN: Well, we do not know how
3 long -- I mean, they have an estimate and one of them
4 may rightfully run over whatever their estimate is. So
5 there is no guarantee they will finish necessarily on
6 Tuesday.

7 And there is no way, you think, with the
8 remainder of today and all of Wednesday that you will
9 finish on Wednesday?

10 MR. WILLIAMS: We are certainly going to
11 make every effort to do so, Mr. Chairman but, again, it
12 could go into the Thursday. I am trying to be helpful
13 but I can't be more precise than that at this point in
14 time. It could go into the Thursday, but I realize
15 that's an early day and I am certainly --

16 THE CHAIRMAN: I mean, we are willing to
17 start on Thursday at 8:30 and we can sit no later than
18 two on Thursday.

19 MR. WILLIAMS: Yes.

20 THE CHAIRMAN: But we do not want to --
21 well, put it this way, Mr. Freidin, if worse came to
22 worse and we started the following week, if we had to
23 take the morning to complete your re-examination, for
24 instance or something like that, so we would start that
25 panel -- well, sorry, we come on the Monday in the

1 afternoon, but we might have to take that afternoon to
2 complete this panel.

3 MR. FREIDIN: That's fine.

4 THE CHAIRMAN: Mr. Edwards?

5 MR. EDWARDS: Mr. Chairman, I apologize
6 for arriving late this morning. I let Mr. Mander know
7 that I would be here a few minutes late.

8 I assume the scoping session with respect
9 to Panel 10 is largely complete, but I had a couple of
10 matters which I would like to raise, if I could.

11 THE CHAIRMAN: All right. Just one
12 second, Mr. Edwards, let's just settle this.

13 Are the parties basically in agreement
14 then that we would start next week, Tuesday afternoon,
15 and then proceed on with Panel 8 and hopefully we
16 complete that week.

17 If for some reason we cannot complete
18 that week, we will complete the first afternoon of the
19 following week.

20 Ms. Swenarchuk?

21 MS. SWENARCHUK: I just want to be clear
22 that in spite of the arrangements that, under no
23 circumstances, will Panel 9 be commencing next week.

24 THE CHAIRMAN: It does not appear there
25 is a snowball's chance that it will.

1 MS. SWENARCHUK: Even if they should
2 speed up and be through...

3 THE CHAIRMAN: I wouldn't be optimistic.

4 MR. MARTEL: A miracle.

5 MR. FREIDIN: Snowballs never melt here.

6 THE CHAIRMAN: Right.

7 MS. SWENARCHUK: If anything like that
8 should occur, I would like somebody to contact me in
9 Toronto.

10 THE CHAIRMAN: NO, I don't think it will
11 in fact occur in any event. Mr. Edwards wants to make
12 a comment.

13 Mr. Edwards?

14 MR. EDWARDS: Thank you, Mr. Chairman. I
15 am not certain exactly where you are in the scoping
16 process, but I just wanted to raise a couple of issues
17 with respect to our statement of issues which was filed
18 with respect to Panel 10 just to let Mr. Freidin know
19 that we have some concerns about it.

20 The statement of issues which I filed
21 with respect to Panel 8 indicated that we intended to
22 cross-examine on material provided that timber
23 management planning training sessions on the
24 implementation manuals including provincial guidelines,
25 construction and operational manuals, in particular,

1 the Timber Management Guidelines for the Protection of
2 Tourism Values, Resource Access Roads, Policies, et
3 cetera.

4 We also suggested that for the purposes
5 of Panel 8 that issues requiring further oral
6 explanation included an explanation of the
7 decision-making process in deciding if and where to
8 build forest access roads as the issue was not
9 addressed sufficiently or at all in the Timber
10 Management Guidelines for the Protection of Tourism
11 Values.

12 Now, we raised that with respect to Panel
13 8 and nobody suggested that cross-examination in those
14 areas would be inappropriate on Panel 8 until part way
15 through the cross-examination. Now, I just wanted to
16 combine or incorporate by reference those particular
17 parts of my Panel 8 statement of issues in Panel 10.

18 I prepared the Panel 10 document
19 obviously before we started that Panel 8 the other day.
20 I just wanted to let Mr. Freidin know and the Board
21 know that we intend to cross-examine on those Tourism
22 Guidelines rather extensively in Panel 10 as we
23 understand that we will have somebody who knows
24 something about them in Panel 10.

25 MR. FREIDIN: There will be somebody who

1 knows something about them, Mr. Clark will be talking
2 about those. However, decision-making re: where to
3 build access roads...

4 THE CHAIRMAN: That will be a different
5 panel; will it not?

6 MR. FREIDIN: Well, Panel 15, once
7 everybody has a chance to look at it, you will see that
8 one of the important matters which has sort of separate
9 attention in terms of setoff in Appendix No. 2 is, in
10 fact, the location for the planning of access roads.

11 And all of the considerations that go
12 into where you put them, why you put them, when you
13 move them, when you don't; people in 14 will be talking
14 about how you build them and will be able to talk about
15 concerns that people may have about how you build them
16 and potential effects of how you build them as opposed
17 to where you build them.

18 In terms of the training, if people
19 wish - and I guess I am in part responding to your
20 comment yesterday, Mr. Chairman, about everybody should
21 have the full opportunity to canvass all the issues in
22 relation to training - I can advise you that two of the
23 key people who have been putting together the training
24 courses for some time and running them, Mr. Bisschop
25 and Mr. Fleet, are witnesses in Panel 15. Mr. Kennedy

1 has also had extensive involvement in terms of
2 preparing the Environmental Assessment Document and
3 being involved in those sessions and is going to be a
4 witness in Panel 11.

5 Those are 3 people who I think would be
6 people that any additional concern -- any concern which
7 hasn't been addressed by this panel in relation to
8 training specifically timber management planning
9 sessions and what the timber management planning manual
10 or the EA required in relation to certain things, those
11 are the people.

12 Now, I say all that - and Mr. Kennedy is
13 coming up in 11. I think that if certain concerns
14 about that level of training and about training are not
15 addressed here, then 15 would be a better place to deal
16 with it, but I leave that up to counsel.

17 EDWARDS: With respect to the training
18 perhaps Mr. Freidin is correct and I will perhaps speak
19 to him outside this room about that.

20 With respect to the issue of what degree
21 of input by my clients is allowed and at what stages of
22 the process involving the mitigation of the impact of
23 timber management on tourism values, I assume that that
24 is an issue which is four square before Panel 10 and
25 certainly the location of access roads, in our view, is

1 the major deficiency in that document. And I certainly
2 intend to ask questions of the panel with respect to
3 that and I just wanted to alert Mr. Freidin.

4 I know the last time I filed my Panel 8
5 statement of issues nobody suggested that anything in
6 it was inappropriate and I just wanted to make sure
7 that Panel 10, which is a very -- our Panel 10 document
8 which is a very short document is not criticized for
9 its limited scope.

10 I wanted to make sure that my Panel 8--

11 THE CHAIRMAN: Well, I don't--

12 MR. EDWARDS: --material is here.

13 THE CHAIRMAN: --if you were here when
14 the Board made the comment that the cross-examinations
15 with Panel 10 and succeeding panels will be wide open
16 to bring in most of the issues which might have been
17 addressed in a general context.

18 MR. EDWARDS: Yes. Well, thank you, Mr.
19 Chairman. I just wanted to make sure that some part of
20 my Panel 8 statement of issues is in effect
21 incorporated in Panel 10.

22 Thank you very much.

23 THE CHAIRMAN: Okay, thank you.

24 Are there any more comments, ladies and
25 gentlemen, with respect to any of the statements of

1 issue, any clarifications required at this time?

2 Okay.

3 MR. FREIDIN: One housekeeping matter.

4 THE CHAIRMAN: Yes.

5 MR. FREIDIN: Panel No. 8, Exhibit 378, I
6 should advise that on page 287 we have a silvicultural
7 guide -- Table of Contents for Silvicultural Guide
8 which says White Pine Working Group. By mistake you
9 received a copy of the 1973 version.

10 We will provide the Board and parties
11 with the Table of Contents that should have been
12 completed which was the 1983 version.

13 Thank you, Mr. Chairman.

14 MRS. KOVEN: Is that page 378, Mr.
15 Freidin?

16 MR. FREIDIN: 287.

17 MRS. KOVEN: 287.

18 MR. FREIDIN: To 290.

19 MRS. KOVEN: In Panel 10?

20 MR. FREIDIN: No, Panel 8.

21 MS. KOVEN: panel 8.

22 MR. FREIDIN: 287 to 290 will have to be
23 replaced.

24 MR. WILLIAMS: Mr. Chairman?

25 THE CHAIRMAN: Very well, Mr. Williams.

1 MR. WILLIAMS: No, Mr. Chairman, with
2 regard to that so-called housekeeping measure, it is
3 critically important to know when we are going to have
4 that documentation; it is part of our
5 cross-examination.

6 MR. FREIDIN: Today.

7 MR. WILLIAMS: Just a minute.

8 Mr. Chairman, we are going to need that
9 documentation in order to proceed.

10 THE CHAIRMAN: Mr. Freidin, can you
11 produce that document right away for Mr. Williams?

12 MR. FREIDIN: I will just ask. (handed)

13 THE CHAIRMAN: All right. I think we
14 will adjourn for 20 minutes at this time and you will
15 have a chance to look it over, Mr. Williams.

16 MR. WILLIAMS: Thank you, Mr. Chairman.
17 One half an hour.

18 THE CHAIRMAN: One half an hour. Very
19 well.

20 ---Recess taken at 9:30 a.m.

21 ---Upon resuming at 10:00 a.m.

22 THE CHAIRMAN: Thank you. Be seated,
23 please. Mr. Williams?

24 MR. WILLIAMS: Mr. Chairman, I would like
25 to briefly summarize where we left off yesterday and to

1 provide the Board with a general appreciation of where
2 my line of questioning with Mr. Scott is leading.

3 In doing so, I realize that I am inviting
4 the wrath of Mr. Freidin, however, I have done my best
5 to be accurate in my recount of yesterday, and I would
6 certainly invite Mr. Freidin or Mr. Scott to interject
7 at any point that he feels there is some
8 misunderstanding or inaccuracy.

9 THE CHAIRMAN: Okay. But in recounting
10 yesterday's proceedings -- cross-examination, we don't
11 want a complete repeat of yesterday's
12 cross-examination.

13 MR. WILLIAMS: Oh no, oh no, oh no, oh
14 no, brief summary or points.

15 THE CHAIRMAN: Okay.

16 WILLIAM STRAIGHT,
17 DAVID SCOTT,
PETER McNAMEE, Resumed

18 MR. WILLIAMS: It is my understanding,
19 Mr. Chairman, that we established with Mr. Scott
20 yesterday the following five points:

21 Firstly, that the qualifications and
22 experience of MNR staff are one of the cornerstones of
23 the proposed timber management.

24 Secondly, that Mr. Scott was directly
25 involved in two timber management planning processes

1 and that the Bright Sands TMP, of which he was a
2 chairman of the planning team and a member of the
3 steering committee, was prepared following essentially
4 the planning process contained in the proposed Class EA
5 as summarized in Figures 2.1-1 and 2.1-2.

6 MR. SCOTT: Excuse me, Mr. Chairman. I
7 believe that I specified that I chaired the planning
8 team during the initial preparation of the plan, that
9 my move to southern Ontario as southern Ontario
10 pesticide coordinator was while that process was going
11 in. I thought I had indicated that.

12 THE CHAIRMAN: I think there was some
13 evidence to that effect, Mr. Williams.

14 MR. WILLIAMS: Yes, he had been chairman
15 of the planning team up to that point. Is that right?

16 THE CHAIRMAN: Just prior to his move,
17 but he wasn't there for the whole development of the
18 plan.

19 MR. WILLIAMS: All right. But he had had
20 some involvement in that sense.

21 THE CHAIRMAN: Yes, some involvement.

22 MR. WILLIAMS: Thirdly, that one of the
23 special skills that Mr. Scott possesses and which he is
24 above average compared to other MNR staff is integrated
25 resource management.

1 Fourthly, that Mr. Scott was an author of
2 Document 1 of this witness panel, that this document
3 was prepared to support Parts II and III of the Class
4 EA and that it was necessary to have a fundamental
5 knowledge of the Class EA in order to prepare such a
6 document.

7 MR. SCOTT: Mr. Chairman, excuse me. I
8 don't believe that that was the intent of my testimony
9 and if I can clear the interpretation, I felt that in
10 order to prepare Document 1 of our witness statement we
11 had to have an idea of the objectives of preparing that
12 witness statement.

13 I did say that, in addition to that, I
14 have a fundamental understanding of the Class EA
15 Document, but in order to prepare Document 1 of my
16 witness statement -- of our witness statement, I
17 believe that my intent was to understand why we were
18 writing that witness statement.

19 MR. WILLIAMS: All right. And, fifthly,
20 Mr. Chairman, that in his opinion integrated resource
21 management is an integral part of this undertaking that
22 it entails, among other things, the optimization of
23 benefits from the provincial land base and that he has
24 practical experience applying the concept.

25 MR. SCOTT: Mr. Chairman, if I can get

1 that resummarized, I am not sure that is the way I
2 intended my words to be interpreted.

3 MR. WILLIAMS: That in your -- Mr.
4 Scott's opinion, integrated resource management is an
5 integral part of this undertaking.

6 MR. SCOTT: I believe integrated resource
7 management is part of timber management planning, but
8 the purpose of the Class EA for timber management is,
9 as stated in the application, to provide a continuous
10 wood supply and I think we discussed my experience in
11 fisheries management planning relative to that.

12 MR. WILLIAMS: That it entails, among
13 other things, the optimization of benefits from the
14 provincial land base?

15 MR. SCOTT: I believe that is in the
16 document itself. I am not sure of the correct wording.

17 MR. WILLIAMS: But that was acceptable to
18 you?

19 MR. SCOTT: According to the wording in
20 the document itself and without taking the opportunity
21 to read it again.

22 MR. WILLIAMS: All right.

23 THE CHAIRMAN: Well, Mr. Williams I think
24 what you are referring to is the description in the EA
25 of integrated resource management and that was the

1 definition on page 111--

2 MR. WILLIAMS: Yes.

3 THE CHAIRMAN: --of the condensed copy.

4 MR. WILLIAMS: Well, you may recall, I
5 had asked you specifically -- I had asked you
6 specifically: Do you agree that an objective of IRM...

7 THE CHAIRMAN: Sorry, Mr. Williams, it
8 was page 109 that I was referring to not 111.

9 MR. FREIDIN: 101.

10 THE CHAIRMAN: 101, I am sorry.

11 MR. FREIDIN: That is at the top of the
12 page 101.

13 MR. SCOTT: Yes. I believe my testimony
14 said that I agreed with the definition contained or the
15 passage in quotations at the first paragraph of 101.

16 MR. WILLIAMS: All right. And, lastly,
17 that you had practical experience applying the concept?

18 MR. SCOTT: Yes.

19 MR. FREIDIN: Mr. Chairman, by my
20 silence I don't want that to be taken as an agreement
21 that he has properly capsulized all the evidence
22 yesterday. The transcript will speak for themselves.

23 THE CHAIRMAN: It is Mr. Williams'
24 summary not yours.

25 MR. FREIDIN: Thank you.

1 MR. WILLIAMS: Mr. Chairman, just a few
2 more moments, if I might.

3 When we left off with Mr. Scott I was
4 exploring with him how this blending of Ministry
5 directives and professional judgment referred to in his
6 witness statement is put into practice.

7 To do so we begun to follow through the
8 steps in Figures 2.1-1 and to examine at each step of
9 the way, based on his experience with the Bright Stands
10 Timber Management Plan, how the planning process being
11 put before this Board has been implemented or had been
12 implemented.

13 Now, Mr. Chairman, what I want to explore
14 with Mr. Scott today are several matters. I raised in
15 my questioning of Mr. Straight what were some essential
16 components of environmental assessments in general and
17 the need for traceability and accountability.

18 Mr. Scott has agreed to these being basic
19 essential ingredients and I am interested to see how
20 these features match with the resource management
21 decision-making evidence that this panel is presenting.

22 Mr. Chairman, I don't like to be
23 repetitive, but I think it is extremely important that
24 while we fully respect Mr. Freidin's claim that Panel
25 15 will deal with this subject fully - and we are

1 looking forward to that evidence - these matters run to
2 the heart of this application.

3 Without us gaining at this time a general
4 appreciation of how the decision-making process being
5 proposed operates, every question put to Panels 10
6 through 14 we will need to first establish this
7 context.

8 Mr. Freidin has seen fit to bring forward
9 this panel at this time to deal with the
10 decision-making process. As I have said before, I am
11 in complete agreement that this is the appropriate time
12 to address these matters. I need not remind this Board
13 that this is a Class EA application and that the
14 essential matter that this Board must decide on is what
15 will you approve as the central component of that
16 planning process.

17 In my mind, the planning process is
18 simply a structured decision-making system and, hence,
19 the importance of this panel.

20 THE CHAIRMAN: Well, you can ask the
21 questions of this panel; to the extent they can answer,
22 they can answer.

23 MR. FREIDIN: I would just add - sorry to
24 interrupt - the purpose of the panel was to describe
25 resource management decision-making to explain the

1 tools which are available to resource managers
2 regardless of what resource they are managing,
3 Therefore, those tools are available to people who are
4 doing timber management planning.

5 The purpose of this panel was not to
6 explain the timber management planning process or the
7 planning process specifically for any other resource as
8 well.

9 MR. WILLIAMS: Mr. Chairman, if I might
10 have the indulgence of the Board for just one more
11 moment. There is one other issue that has arisen that
12 is relevant both to the issue -- to the evidence of
13 this panel and the overall question before this Board;
14 that is, if the planning process being proposed is
15 approved, how can this Board be assured that in fact
16 this will be implemented.

17 THE CHAIRMAN: Well, that is certainly
18 going to be dealt with by monitoring compliance and
19 other panels.

20 MR. WILLIAMS: All right. But I am
21 trying to show you where we are trying to take our
22 evidence, Mr. Chairman, so that you will have an
23 appreciation,

24 And just to conclude here, specifically,
25 if the planning process hinges on MNR policies and

1 their ability to recruit adequately trained and
2 competent staff in a highly judgmental and qualitative,
3 if you will, environmental assessment procedure, we are
4 anxious to hear through this cross-examination and
5 evidence that I will be calling the practical
6 mechanisms available to this Board to control
7 essentially the internal administration of the
8 applicant.

9 The thrust of my cross-examination of
10 this panel is intended to explore these central issues
11 to your decision. So if I might, Mr. Chairman, I would
12 like now to continue with my cross-examination of Mr.
13 Scott.

14 THE CHAIRMAN: Mr. Freidin?

15 MR. FREIDIN: The topic that was last
16 mentioned about somehow ensuring how in fact the EA is
17 approved to be implemented is one way of saying how, in
18 terms of how the terms and conditions imposed by this
19 Board have been enforced throughout.

20 I think that is something which our Panel
21 No. 16 and in particular 17 sort of speak to and they
22 have to talk about all kinds of things; about
23 amendments to the Class EA during the term of any
24 approval, the application to come back here - not here,
25 but to perhaps the Minister of the Environment for a

1 renewal of the approval.

2 Those issues I think that are being
3 raised by Mr. Williams are not going to be addressed
4 and, again, I leave it to you Mr. Chairman how far we
5 go, but I am just saying that is what I saw all this
6 line of questioning coming to.

7 THE CHAIRMAN: Well, Mr. Williams, I
8 think we want to make it clear at this point.

9 You can certainly cross-examine this
10 panel on anything to do with the training and expertise
11 of staff involved, the process issues that they
12 involved themselves with in terms of the evidence given
13 in direct examination, et cetera.

14 But we are, as you are aware, going to
15 have an extensive part of the hearing process later on
16 where parties are going to be submitting draft
17 conditions of approval, we are going to deal
18 extensively with monitoring compliance and those issues
19 and, of course, this Board has the jurisdiction to
20 attach to any approval conditions of approval which, as
21 you are aware from the legislation, are in fact
22 enforceable, they become part of the approval, breach
23 of them constitutes an environmental offence under the
24 Act and other things flow from that.

25 So I don't think this is the appropriate

1 panel to deal with ways in which any approval of any
2 process that this Board might give is to be enforced or
3 any of the conditions are to be complied with. That is
4 not to say that that topic will not be fully canvassed
5 at a later stage in the proceeding.

6 So I think you have to bear that in mind
7 in your cross-examination. We don't mind wide ranging
8 cross-examination, but we have to put some limits on
9 its scope because other matters are going to be dealt
10 with that concern you in this area.

11 MR. WILLIAMS: I just wanted to assure
12 the Board that our concern at this point is not with
13 compliance and monitoring.

14 THE CHAIRMAN: Let's start off.

15 MR. WILLIAMS: All right.

16 THE CHAIRMAN: And we can see where you
17 are going. If it looks like it is entering into areas
18 that should be left until later, we will so advise you.

19 MR. WILLIAMS: Thank you, Mr. Chairman.

20 CONTINUED CROSS-EXAMINATION BY MR. WILLIAMS:

21 Q. Mr. Scott, when we left off yesterday
22 we had reached the point in the timber management
23 process where the silvicultural system is being
24 selected. Is that your recollection?

25 MR. SCOTT: A. Yes.

1 Q. We were discussing the role of the
2 silvicultural guides in this process; is that right?

3 A. Yes.

4 Q. And I asked about the implications to
5 MNR foresters if the guidelines were not available and
6 I believe you felt that both as an administrator and as
7 a forester this would not reduce your confidence in the
8 final decision?

9 A. I believe the way I worded that was
10 that the scientific knowledge is out there, there are
11 other trained experts, those other tools in resource
12 management decisions may weigh more heavily in terms of
13 how we come about with a product.

14 But if we set a standard for the product,
15 I have every confidence that those standards would be
16 achieved.

17 Q. I believe you also indicated
18 basically that your staff would do what was required to
19 make sure that an adequate level of confidence was
20 embodied in the plans, even if it meant more work and
21 more time in the library, as you put it?

22 A. Again, in the hypothetical example
23 that we don't have these streamlined guides to help us
24 in our decision-making, I would not change the standard
25 for the product that we want to have achieved; and that

1 may require more time in the library, it may require
2 more time calling Canadian Forestry Service expertise
3 in on a problem to advise in matters. But, again, I am
4 confident that the standards that we set would be
5 achieved.

6 Q. Mr. Scott, your confidence and faith
7 in your staff is admirable in some respects, but it
8 concerns me that this could be seen as the solution to
9 all problems, basically that: Don't worry, we have got
10 everything under control type of approach.

11 A. Sorry, I was not suggesting don't
12 worry. I was not suggesting we have everything under
13 control; I was suggesting that we try and achieve a
14 standard of product.

15 Q. All right. Mr. Scott, in your view,
16 do the silvicultural guides represent a synthesis of
17 the combined expert judgment, most up-to-date research
18 and direct field experience of your Ministry?

19 A. I would say the guides attempt to
20 achieve that. In the terms of accessing all science
21 and all experience of all the foresters within the
22 Ministry and outside the Ministry, I would say that is
23 impossible to achieve.

24 I would say the way the guides are
25 written by a multi-disciplinary team and accessing as

1 many of the expertise, people in research fields, et
2 cetera, that we can as acknowledgements as I showed in
3 the Silvicultural Guide for Spruce Working Group we
4 come as close to that as possible.

5 And if I can allude back to Dr. McNamee's
6 slide of guidelines, better guidelines, even better
7 guidelines, I would say that for spruce, in my opinion,
8 we are at one of the points beyond the stage of having
9 initial guides for spruce, but to say they are perfect
10 and represent everything would be incorrect on my part.

11 Q. You have referred to Dr. McNamee's
12 slide and you have obviously some knowledge of the
13 approaches used by Dr. McNamee.

14 A. I am not really too familiar with Dr.
15 McNamee's work, no.

16 Q. You are not?

17 A. No. I just use that to illustrate...

18 Q. You say you are not too familiar, you
19 mean...

20 A. I just used that slide to illustrate
21 what I was saying in a simple form.

22 Q. Well, you are saying that in fact you
23 are not familiar with the approaches used?

24 A. I was not part of those workshops and
25 I'm not aware of how he was the facilitator for those

1 workshops and the materials presented in Panel 8.

2 Q. Mr. Scott, have you read all the
3 Panel 8 witness statement?

4 A. Yes, I have. Sorry, I have not read
5 all of the ESSA documents that were attached to the
6 witness statement.

7 Q. In other words, you read all of the
8 witness statement except Document 2; is that what you
9 are telling us? Document 2 is Dr. McNamee's input into
10 the process. You haven't read that at all?

11 A. Not in complete form, no.

12 Q. What part of it have you read?

13 A. I can't recall.

14 Q. Well, have you read --

15 A. I think in the witness statement, if
16 I can be helpful, Mr. Williams, it specifies what
17 subjects I was called for witness on Panel 8 pertaining
18 to and those are the areas that I am familiar with.

19 Q. Well, as one of the authors of a
20 witness panel and one of the experts thereon, would you
21 not have an interest in what the other witnesses to
22 that panel have to say?

23 A. Yes, I have an interest.

24 Q. Extensive interest?

25 A. Can you define extensive? I mean, as

1 I said, I am prepared to talk about my portion of the
2 witness statement.

3 MR. FREIDIN: Mr. Chairman, the point is
4 made. I mean, where do we go with all this?

5 THE CHAIRMAN: I think, Mr. Williams, in
6 fairness you have made the point. He is not familiar
7 with some of the work of Dr. McNamee and whether or not
8 he should have been familiar with the work of Dr.
9 McNamee is, I suppose, a matter for the Board.

10 MR. WILLIAMS: Thank you.

11 Q. Mr. Scott, the methodological
12 description contained on pages 348 to 362 of this
13 panel's statement describes a system to synthesize
14 expert opinion and information, and if I could ask you
15 to turn to page 356.

16 MR. SCOTT: A. If I can just review this
17 for a couple of minutes to put it in context.

18 Q. Having put that to you, I am asking
19 whether in fact you agree with that observation, that
20 the methodological description contained on those pages
21 describes a system to synthesize expert opinion and
22 information.

23 I will give you a few moments to look it
24 over.

25 MR. FREIDIN: 366?

1 MR. WILLIAMS: Page 356, yes. Sorry, 348
2 to 362.

3 MR. FREIDIN: 362?

4 MR. WILLIAMS: 348 to 362.

5 MR. FREIDIN: You want this witness to
6 read the paper prepared by ESSA now and tell you
7 whether that is what it is?

8 THE CHAIRMAN: I don't think we can do it
9 in this forum -- in this fashion, Mr. Williams. It is
10 a fairly technical report and for the witness to read
11 it in two minutes and then respond, I don't think is
12 appropriate.

13 I mean, you can ask him the questions, he
14 may not be able to answer them at all.

15 MR. WILLIAMS: All right. It looks that
16 way.

17 MR. FREIDIN: Without commenting on
18 whether in fact the question is properly put to this
19 witness, I mean we have got the authors of the document
20 sitting right here. Why don't we ask the person who
21 co-authored the document to get the right evidence.

22 I mean, everybody doesn't know everything
23 about everything, Mr. Williams.

24 MR. WILLIAMS: Q. All right. Let me
25 then put that question to Dr. McNamee.

1 Dr. McNamee, the methodological
2 descriptions contained on those pages, 348 to 362, the
3 panel describes a system to synthesize expert opinion
4 and information; do you agree?

5 DR. McNAMEE: A. Yes, I do. It is not
6 the only way by which that might be done.

7 Q. Can we come to page 356, please.
8 Now, referring to the important advantages of model
9 evaluation, if you could look at that material which
10 has the bulleted items, in fact take it from the top of
11 the page. I will give you a moment to look through
12 that paragraph.

13 Mr. Scott, are you familiar with this at
14 all?

15 MR. SCOTT: A. If I can refer you to
16 page 78 of my witness statement, I will read it again.
17 It says:

18 "David Scott will attend the hearing and
19 give evidence with respect to paragraphs
20 7 and 9."

21 And that's how I prepared myself.

22 My answer would remain the same, I am not
23 prepared to talk about the ESSA Document because of
24 lack of familiarity. Even taking a couple of hours to
25 read it over, does not mean that I can access other

1 opinions and that to familiarize myself with the
2 material.

3 DR. McNAMEE: A. It is also important to
4 bear in mind that the approach described on pages 348
5 and onward, as I said in my evidence-in-chief, are one
6 way in which you can achieve monitoring programs and
7 things of that sort. I also said that any approach can
8 be used as long as it contained technical attributes.
9 This is not the only way.

10 Q. All right. Now, Mr. McNamee, let me
11 ask you this question: I am referring you to the second
12 bulleted item on page 356 and I will read it into the
13 record:

14 "The conclusions reached by the
15 stakeholders are defensible because of
16 the rigorous approach taken in evaluating
17 the model."

18 Do you agree that by combining experts' opinions in a
19 disciplinary way one can arrive at defensible
20 conclusions. Would you agree with this hypothesis?

21 A. With which one? You named -- as said
22 here?

23 Q. Yes.

24 A. I would agree that the approach -- I
25 would maintain that the approach we took is one way in

1 which that particular end may be reached.

2 Q. All right. Mr. Scott, if we can come
3 back to you. Continuing with regard to silvicultural
4 practices -- after you decide on silvicultural ground
5 rules, what is the next step in the process?

6 MR. SCOTT: A. Reading from Figure
7 2.1-1?

8 Q. Correct.

9 A. Determination of maximum allowable
10 depletion.

11 THE CHAIRMAN: What's the page on that,
12 Mr. Williams?

13 MR. WILLIAMS: That's page 109, Mr.
14 Chairman.

15 THE CHAIRMAN: Thank you.

16 MR. WILLIAMS: Q. Would you agree, Mr.
17 Scott, that calculating maximum allowable depletion,
18 while it is quite complicated, it is also quite
19 mechanical?

20 MR. SCOTT: A. I would say there are
21 mechanical aspects to it.

22 Q. Would it not be relatively
23 straightforward for someone with a technical
24 understanding of the calculations to trace through and
25 see how the preliminary MAD was arrived at?

1 A. I guess my answer would be that, in
2 my experience, there are many ways to calculate maximum
3 allowable depletion and sometimes -- and I am drawing
4 back from long time memory, taking forest management at
5 university and in terms of direct experience, there are
6 a variety of formulas that can be used, sometimes a
7 combination, and with just some technical expertise, I
8 would not say it would be easy to trace; it would not
9 necessarily be easy to trace.

10 Q. I presume it would be if you had all
11 of the technical equipment and material that is
12 available to the Ministry?

13 A. I think it is more than that. I
14 think you have to know and deal with the author of the
15 plan who calculated the maximum allowable depletion and
16 find out what process they used. It is matter of
17 unlocking the key. You can't just have a bunch of
18 equipment there.

19 Q. Surely a technician would be able to
20 understand the calculations in order for tracing?

21 A. Again, in my experience, the
22 calculation of maximum allowable depletion has a
23 variety of options to it and it is up to the judgment
24 of the plan author to decide which route to go.

25 We do have some technical things

1 available to us and if you know which ones are used by
2 the author, it does become easy to see how the maximum
3 allowable depletion was calculated.

4 THE CHAIRMAN: Yes, Mr. Scott, but what
5 checking mechanism is used by the Ministry to ensure
6 that the authors of the particular plan utilized the
7 right formula and used the appropriate input?

8 What's to say if there is no checking of
9 the calculation, that the MAD is accurate?

10 MR. SCOTT: I am sure that in terms of
11 the review process that we go under there would be a
12 checking of that with the plan author and that would be
13 specified out. I was just saying that it is not just a
14 matter of simplicity for any person with some technical
15 background to come in and be able to trace how that was
16 done.

17 If I was doing the checking on a plan, if
18 I was doing plan review, I would have the plan author
19 there or even be part of that planning team and I would
20 know those things in advance before I did that
21 checking.

22 THE CHAIRMAN: Well, how could any
23 interested group or member of the public, if
24 necessary - even with the assistance of some technical
25 expertise - take a look at a plan, obviously see a

1 figure that is calculated for the MAD and say to
2 themselves: How can we find out if this was
3 appropriate and it was done within guidelines, et
4 cetera?

5 MR. SCOTT: That situation actually crops
6 up reasonably frequently in my experience as forest
7 management supervisor, and what I have done is people
8 who want to come in and look at the plan and look at
9 those technical aspects, they are there and I make sure
10 there is staff available to them who can answer the
11 questions that they may have pertaining to those
12 matters.

13 MR. WILLIAMS: Q. The bottom line then,
14 Mr. Scott, is you still have to go to the author to get
15 the answers?

16 MR. SCOTT: A. Or someone who knew what
17 processes or how the author came up with that
18 calculation.

19 Q. All right.

20 A. As I say, we make sure there is
21 someone available who can advise a person looking at
22 them to make sure they get the answers they need.

23 Q. All right. Mr. Scott, these
24 calculations can be replicated by resolving the
25 mathematical equations; can they not?

1 A. I would say there are mathematical
2 equations that can be used to formulate the maximum
3 allowable depletion number according to the management
4 plan objectives.

5 Q. What are the primary inputs to the
6 MAD calculation?

7 A. If I can -- I guess I would have to
8 read over the Class EA and do some technical work
9 before I was prepared to give a complete answer.

10 THE CHAIRMAN: Mr. Williams, we spent a
11 lot of time with--

12 MR. FREIDIN: Dr. Osborn.

13 THE CHAIRMAN: --Dr. Osborn going through
14 the MAD calcuation, all of the inputs, et cetera. I
15 don't think we are going to go through it at this point
16 again.

17 MR FREIDIN: Mr. Chairman, if my friend
18 wants the opportunity to ask somebody who has actually
19 prepared a plan and can tell you what the management
20 objectives are and how the MAD was calculated, I would
21 suggest that Mr. Williams wait for Panel No. 15 when
22 Mr. Moldinacki and other people who prepared the plans
23 speak to the Red Lake plan and perhaps others.

24 That's where you are going to get that
25 kind of information. I don't think we should be taking

1 time to deal with it here.

2 MR. STRAIGHT: Mr. Chairman, perhaps
3 while Mr. Williams is consulting there, at some
4 appropriate time, sir, I believe in my
5 cross-examination by Ms. Swenarchuk, I referred to a
6 type of fisheries study that we conducted with Ministry
7 of Tourism on Lake of the Woods and, where it is
8 appropriate, I will introduce that if you will allow
9 me.

10 MR. WILLIAMS: Well, Mr. Chairman, again,
11 we certainly were not going to get into the technical
12 aspects of MAD calculations; we were trying to relate
13 how -- and the purpose of questioning was to determine
14 how professional judgment is being applied in -- but
15 melding of the Ministry direction and a professional
16 judgment.

17 THE CHAIRMAN: Mr. Williams, with respect
18 to the MAD calculation questions that you are entering
19 upon, this Board, as you are well aware, spent a
20 considerable amount of time with Dr. Osborn listening
21 to how the MAD calculation was developed, what the
22 inputs were in general and the equations used and a lot
23 of considerations concerning the objectives put forward
24 by the Ministry that went into that calculation.

25 We have covered it in general. You have

1 been advised by Mr. Freidin that you will be covering
2 those calculations of how the MAD is arrived at in
3 reference to a specific plan in Panel 15. You will
4 have the opportunity of cross-examining a witness at
5 that time who has in fact prepared the MAD
6 calculations.

7 Now, to spend the time in this panel with
8 this witness talking about the inputs that go into a
9 MAD calculation is, in our opinion, repetitive and is
10 not productive at this time.

11 MR. WILLIAMS: Thank you, Mr. Chairman.

12 Just give me a moment, Mr. Chairman, I
13 have to -- there are a number of questions here that I
14 am going to have to bypass for this occasion based on
15 what you have recommended.

16 Q. Mr. Scott, the next step in the
17 process is decide on areas eligible for various timber
18 management activities; do you agree?

19 MR. SCOTT: A. I would agree that the
20 next step is identification of potential areas of
21 operations for the 20-year period of the timber
22 management plan.

23 Q. The first phase seems fairly
24 straightforward and consists of identifying suitable
25 areas for specific activities according to specific

1 criteria; is that correct?

2 A. I would say the first step appears
3 straightforward as the identification of areas eligible
4 for harvest renewal and maintenance operations.

5 I hate to just read back the words that
6 are already in the Class EA, but I am concerned about
7 the interpretation, the way you are phrasing them, to
8 make sure I am consistent with the application that we
9 are doing.

10 Q. Preliminary areas of concern are next
11 identified?

12 A. Yes, sub 2, identification of
13 preliminary areas of concern.

14 Q. Will you turn to page 132, please. A
15 broad definition of the areas of concern is set out on
16 that page.

17 Would you agree that it is defined as
18 geographically defined areas of value to other
19 users/uses which could be affected by timber management
20 operations, including roads, which may require
21 modifications to those operations?

22 A. And which may require modifications
23 to those operations, I would agree to that.

24 Q. Do you agree the definition has two
25 components; firstly, involving a determination of those

1 areas that could be affected by timber operations; and,
2 secondly, involves deciding whether a modification to
3 normal practices is warranted?

4 A. No, I don't agree with your
5 definition.

6 Q. Well, it is right there in black and
7 white.

8 A. You said identify areas that could be
9 affected by timber operations. There is a significant
10 difference in this where it says in the 20-year stands
11 eligible for timber operations.

12 Q. I gave you the definition of areas of
13 concern, it is written right in the Class EA.

14 A. Excuse me, Mr. Williams --

15 THE CHAIRMAN: Just a moment, gentlemen.
16 Cool down. Let's take it one at a time.

17 Mr. Williams?

18 MR. WILLIAMS: Q. Mr. Chairman -- Mr.
19 Scott, I read to you the definition of areas of concern
20 as set out in your own Class EA?

21 MR. SCOTT: A. With the exception of the
22 word "and" and I agreed to that.

23 Q. With the exception of what?

24 A. The word "and" on line 23, it is a
25 significant difference.

1 Q. Let me read it again to you.

2 Geographically --

3 THE CHAIRMAN: Just a second, Mr.

4 Williams.

5 MR. WILLIAMS: Did I leave the word out

6 or...

7 MR. SCOTT: Yes.

8 THE CHAIRMAN: Yes, you left it out first

9 thing and we can read it.

10 MR. WILLIAMS: All right, that's fine. I

11 thought there was...

12 Q. All right. Then I asked you whether

13 you agreed that that definition was comprised of two

14 components, and I suggested to you that those two

15 components are these: First, it involves a

16 determination of those areas that could be affected by

17 timber operations?

18 MR. SCOTT: A. That's the area that I

19 had difficulty with because that's what I alluded to

20 yesterday in some of my cross-examination - I can't

21 actually remember if it was yesterday or the day

22 before - I think it was with Ms. Swenarchuk, when I

23 said we have a difficulty identifying all the areas

24 that could be affected by potential timber operations.

25 So I would agree that it is

1 identification of areas which are eligible for timber
2 operation for the 20-year period.

3 Q. I am just asking if that's one of the
4 components of the definition, that's all I am asking
5 you. I don't want you to go into an elaboration on it,
6 just -- all right, carry on.

7 A. It is significant to me that you left
8 out the 20-year period because --

9 Q. Well, it is not in the definition,
10 that's why it is not in there. I am asking you to
11 comment on the definition of areas of concern.

12 I am directing your attention to those
13 specific words in quotes on that page, I am asking you
14 to comment on those and nothing further at this point.

15 A. Okay. If the question is: Is that
16 one of the components, I say that is one of the
17 components, if we suggest that it is within that
18 20-year eligibility listing.

19 Q. Would the second component involve
20 deciding whether a modification to normal practices is
21 warranted?

22 THE CHAIRMAN: Where does it refer to
23 normal practices?

24 MR. WILLIAMS: Just -- all right.

25 MR. FREIDIN: Mr. Chairman --

1 MR. WILLIAMS: Sorry. Involves deciding
2 where there are modifications to those operations - all
3 right - is warranted.

4 THE CHAIRMAN: Mr. Scott, is that a
5 second component of that definition?

6 MR. SCOTT: I can't find it here
7 specifically, but if I can talk about my general
8 understanding of how we approach the area of concern
9 planning process or how I have in the past, I would say
10 we identify potential areas of concern, areas where
11 timber operations or timber activities may impact other
12 values and, in which case, we have the option to
13 proceed with normal operations because that, we feel,
14 the impact allows for normal operations or we have to
15 modify operations.

16 That's my understanding of the process,
17 yes.

18 THE CHAIRMAN: Okay. And are you
19 looking -- when you look for these areas of concern,
20 are you looking for areas of concern within the area
21 covered by the plan for the 20-year planning period?

22 MR. SCOTT: Yes. The areas that
23 potentially could be harvested for that 20-year period
24 or where timber management activities occur during
25 those 20-year periods.

1 MR. WILLIAMS: Q. Mr. Scott, the
2 Fisheries Act, the Migratory Birds Convention Act and
3 the Endangered Species Act are specific pieces of
4 legislation defining statutory areas of concern. Are
5 there other statutes which define specific areas of
6 concern?

7 MR. SCOTT: A. I am aware in a general
8 sense of those three acts. I am sure there are other
9 acts that would apply in timber management planning,
10 but I am not really prepared without, again, going into
11 some research. I am sorry, it is not something I am
12 prepared -- I had prepared myself for to discuss.

13 Q. Okay. Are there provincial policies
14 or manuals setting out how a decision should be reached
15 as to whether an area is an area of concern or not?

16 A. A provincial policy or manual on how
17 decisions should be reached?

18 Q. Yes.

19 A. Maybe Mr. Straight can help.

20 MR. STRAIGHT: A. Perhaps, Mr. Williams,
21 the area of concern planning process definition you see
22 there is one that is specific to the timber management
23 planning process, as I understand it.

24 And, sir, we are trying to be helpful
25 here in terms of the spirit of the hearings more than

1 necessarily elaborating on evidence that was -- that we
2 were prepared to question on, and when you use areas of
3 concern rather loosely you tend to confuse us.

4 There is a very specific definition here.
5 There is a very -- in fact, within the whole planning
6 process here and within the Class EA you will see
7 described as to how we deal with those processes and
8 the directions that surround their use.

9 THE CHAIRMAN: Is a lot of that contained
10 in the Appendix 2 to the Class EA?

11 MR. STRAIGHT: My general understanding
12 of the Appendix is that it illustrates the process by
13 which you go through choosing potential operations and
14 selecting alternatives, if you will, in a sense it is
15 almost a mini-environmental assessment process specific
16 to each area of concern.

17 What's been presented throughout panels,
18 such as 7, in terms of the information available, was
19 an opportunity to provide information -- to provide the
20 Board with information as to the types of data that was
21 collected and the degree to which you would collect
22 information to make those decisions.

23 Another area we seem to be having some
24 problems, Mr. Chairman, is that if Mr. Williams has
25 some concerns with some specific types of decisions, I

1 think it would be more helpful from -- perhaps we could
2 accumulate our experience on the panel to assist him in
3 answering that, if he does have some specific decisions
4 or instances where his clients may have been involved
5 or he may have specific concerns about a fisheries
6 resource.

7 Mr. Scott has some limited experience
8 there. I have certainly been involved in those kinds
9 of decisions on and off for at least the last ten years
10 and basically throughout my career.

11 So if we can offer any help there, sir,
12 we are more than prepared to try and do that.

13 THE CHAIRMAN: Thank you.

14 MR. WILLIAMS: Q. Well, I appreciate
15 your offer of assistance, Mr. Straight, but are you
16 yourself a forester?

17 MR. STRAIGHT: A. I don't believe I am,
18 sir.

19 Q. All right. Well, that is the reason
20 we are asking the questions of Mr. Scott. So thank
21 you, however, for your assistance.

22 Mr. Scott, again I just wanted to be
23 clear - coming back to that question that you were
24 addressing when Mr. Straight tried to assist us in your
25 deliberations - I had asked: Are there provincial

1 policies or manuals setting out how a decision should
2 be reached as to whether an area is an area of concern
3 or not?

4 MR. SCOTT: A. I am not sure of
5 provincial policies and I am not sure of manuals, but
6 if I wanted to set out an area of concern I would refer
7 to the Class EA Appendix 1 and 2. I am just not sure
8 of its technical terminology.

9 Q. What about in your own personal
10 experience with Bright Sands? What...

11 A. My own personal experience in the
12 Bright Sands we followed the timber management planning
13 process which said that we identify potential areas of
14 concern by that definition.

15 Q. Yes, but what about policy direction?
16 What policy direction were you using in developing that
17 in your -- what was utilized in your specific area with
18 Bright Sands?

19 THE REPORTER: I'm sorry, Mr. Chairman, I
20 wasn't able to catch any of that. They were speaking
21 over one another.

22 THE CHAIRMAN: Okay. What specific
23 policy was used and, Mr. Scott, can you reply to that--

24 MR. SCOTT: I believe...

25 THE CHAIRMAN: --in connection with the

1 Bright Sands.

2 MR. SCOTT: Yes. I can't remember the
3 specific policy name or even if there is a specific
4 policy.

5 I am aware that there is a policy
6 directing, or there was a draft policy at the time, I
7 believe it is policy now, on how the timber management
8 planning process is orchestrated using the timber
9 management planning manual and I can't recall the
10 number.

11 MR. WILLIAMS: Q. All right. Well, let
12 me direct you then. I presume -- I will refer you to
13 page 133, Mr. Scott. Is that the policy that you are
14 reflecting, in the bottom paragraph before the
15 sub-heading 3?

16 MR. SCOTT: A. In terms of timber
17 management planning, again, the way we did it was via
18 the timber management planning process and I would
19 imagine there is a link to the policy for integration
20 of other resource values in timber management.

21 Q. Perhaps you could identify the
22 document I am referring you to, to which you are
23 explaining comments on at lines 24 through 26.

24 A. The document which...?

25 Q. Yes. You said that there were policy

1 guides or directives and I would ask you if this was
2 the policy guide or directive that you had in mind?

3 MR. SCOTT: A. No, that is not the one
4 that I had in mind.

5 Q. The policy for integration of other
6 resource values in timber management is not the...

7 A. I recall reading that, but - while I
8 was forest management supervisor in Ignace - but that
9 is not the one that I recall using and referring to in
10 terms of how we directed the planning process on the
11 Bright Sands Forest. That is not to say it wasn't
12 used. Again, the planning team -- we work within that
13 framework.

14 Q. All right. Well once again, Mr.
15 Scott, I want to try to get to the bottom of this, of
16 what assistance is available to you in making the
17 determinations as to whether an area should be an area
18 of concern or not. And perhaps let me provide to you a
19 document.

20 MR. WILLIAMS: I believe it is already an
21 exhibit, Mr. Chairman, but it is entitled: Integration
22 of Other Resource Values in Timber Management. It is a
23 Policy and Planning Secretariat statement. I believe
24 it is contained already in Panel 1.

25 MR. STRAIGHT: Mr. Chairman, that is page

1 242 in Panel 1.

2 THE CHAIRMAN: We haven't got Panel 1.
3 Do you have the exhibit number, Mr. Freidin, by any
4 chance, if that was exhibited earlier?

5 MR. FREIDIN: It is contained I think in
6 Exhibit 6, it is at page 241, so it wouldn't have had a
7 separate number.

8 THE CHAIRMAN: Well, perhaps we can give
9 it a separate number at this time so we can relate it
10 to this cross-examination.

11 MR. FREIDIN: What page?

12 MR. STRAIGHT: Page 242.

13 THE CHAIRMAN: Exhibit 390.

14 ---EXHIBIT NO. 390: Page 242 of Witness Statement for
15 Panel No. 1.

16 THE CHAIRMAN: Is it 6? Page 242 of the
17 exhibit as well; is that what you said?

18 MR. FREIDIN: Yes, that's correct. Could
19 I just have one moment, please.

20 MR. WILLIAMS: Q. Are you ready, Mr.
21 Scott, or are you reviewing the document?

22 MR. SCOTT: A. I think I am ready now.

23 MR. FREIDIN: Okay. Sorry.

24 MR. WILLIAMS: Q. Mr. Scott, are you
25 familiar with the policy enunciated at the top of that

1 document?

2 MR. SCOTT: A. Yes, I would say I am
3 familiar with it.

4 Q. Would this be one of the provincial
5 directives that would need to be melded with
6 professional judgment as described in your witness
7 statement?

8 A. This would be one of the areas that
9 we considered as we highlighted in yellow on our
10 overhead, if you will recall our overhead, and you
11 might want to flip it up, but this would be one of the
12 policies.

13 Would it be helpful if I put that
14 overhead on?

15 Q. Yes, that is fine.

16 A. Again it would be one of those areas
17 in yellow.

18 Q. All right. Mr. Scott, this policy
19 was issued while you were actively involved in the
20 Bright Sands timber management plan; was it not?

21 A. It was issued prior to my becoming
22 actively involved in the Bright Sands.

23 Q. All right. Prior to it. It is
24 indicated, I guess, December the 11th, 1985.

25 A. Yeah, we started the Bright Sands

1 planning process in 1987.

2 Q. Okay. Can you read to me the last
3 sentence under the paragraph heading: Rationale?

4 A. "In addition, the identification and
5 consideration of other resource values
6 has not always taken place in a
7 consistent and orderly fashion across the
8 province."

9 Q. Does this sentence suggest to you
10 that there have been some problems in the past, if not
11 in the present, in dealing with non-timber issues?

12 A. Yes, very clearly. Maybe not
13 problems, I would say inconsistencies in the way we
14 have identified them. I think, in my own opinion,
15 there have been some problems in the past in the way we
16 have done it.

17 Q. All right. Take a moment, if you
18 think you need it. The next number of questions are
19 in the context of you yourself back in the Ignace
20 District working on the Bright Sands timber management.

21 A. I worked on Bright Sands when I was
22 in Thunder Bay District in 1987.

23 Q. All right, I am sorry.

24 MR. FREIDIN: Mr. Chairman, my
25 recollection of the evidence in Panel No. 1 by Mr.

1 Douglas in relation to this was that this was the
2 policy and it is indicated November of 1985.

3 With that the Class EA was submitted in
4 December of 1985 and the implementation of this policy
5 as it relates to timber management is reflected in the
6 area of concern planning process as described in the
7 Environmental Assessment Document.

8 Thank you.

9 THE CHAIRMAN: But what effect does that
10 have, Mr. Freidin, on any timber management plans that
11 have been formulated since 1985, November, and now with
12 respect to this policy?

13 MR. FREIDIN: they have been done in
14 accordance with the area of concern planning process as
15 set out in the Environmental Assessment Document.

16 THE CHAIRMAN: And not necessarily in
17 accordance with this?

18 MR. FREIDIN: No. The evidence was that
19 this is a policy which says, under intent:

20 "It is the intent of MNR through
21 implementation of this policy to do these
22 things."

23 The method by which this policy is to be implemented is
24 in fact the area of concern planning process which is
25 more detailed than the three or four paragraphs which

1 we have here, in fact, it takes up pages -- 10, 11, 12
2 pages, I don't know, of the Class EA and is described
3 in even more detail in the information for Panel 15.
4 That is how the policy gets implemented.

5 THE CHAIRMAN: Well, Mr. Williams, do you
6 want to then just confine your questioning on this
7 document to the policy, if in fact implementation of
8 the policy is taking place under this area of concern
9 procedure which is set out in Appendix 1 of the Class
10 EA and will be dealt with by Panel 15?

11 MR. WILLIAMS: Well, I think, Mr.
12 Chairman, the questions that flow from this I suppose
13 they are equally applicable to the flow chart here and
14 policy is policy and I can refer to that equally as
15 well.

16 MR. FREIDIN: Well, Mr. Chairman, I think
17 that if he wants to deal with this policy I think the
18 appropriate question is whether or not this witness can
19 agree whether the area of concern planning process is
20 consistent with the policy?

21 Now, that is an appropriate line of
22 questioning, having regard to what this panel is
23 talking about.

24 THE CHAIRMAN: Just a moment.

25 Okay, Mr. Williams, if you want to ask

1 the witness questions concerning areas of concern
2 relative to the Bright Sands project timber management
3 plan which he had some input on, that is quite
4 acceptable. But if the answer is going to come back
5 essentially that the procedure that we followed in the
6 Bright Sands project was essentially the area of
7 concern planning processes which are set out in
8 Appendix 1 of the Class EA, we haven't dealt with that
9 planning procedure in detail yet.

10 That, as I understand it, Mr. Freidin, is
11 coming in Panel 15?

12 MR. FREIDIN: Yes.

13 THE CHAIRMAN: And we are going to be
14 dealing with that whole area of concern planning
15 process in detail and any questions on that area of
16 concern planning process can be dealt with at that
17 time.

18 It doesn't make a lot of sense, in our
19 view, to go into that whole area of concern planning
20 process in this panel, to have it repeated in much more
21 detail in Panel 15 and I don't know if that is your
22 answer, Mr. Scott, if you -- and we will put the
23 question to you. I don't want to put any words in your
24 mouth.

25 When you formulated the Bright Sands

1 timber management plan, what procedure were you using
2 to arrive at identification and treatment of areas of
3 concern?

4 MR. SCOTT: I think I can be helpful with
5 a simple answer and a short explanation of that.

6 We were using the area of concern
7 planning process and in the makeup of the team -- we
8 identified the team members yesterday in my
9 cross-examination, identified that we had the
10 designated Crown representative from the Bright Sands
11 FMA on the planning team, as well as an additional
12 forester from MNR support.

13 One of the prime responsibilities of that
14 additional forester was to ensure that we were
15 consistent with those processes that were involved,
16 that it was -- I charged him with the responsibility of
17 just double-checking and making sure that we were doing
18 everything as per the process. He would inform me if
19 we were running into an area where there were any
20 problems, and I don't recall that he ran into any in
21 terms of following that process.

22 THE CHAIRMAN: Well, Mr. Williams, it
23 seems to us the appropriate way to proceed is to leave
24 your questions with respect to the area of concern
25 procedure specifically to when we deal with that whole

1 topic in detail.

2 MR. WILLIAMS: Well, I don't mean to be
3 difficult, Mr. Chairman, but again, as I reiterated on
4 two or three occasions, that we are not dealing with
5 the process but rather trying to unravel this mystery
6 of what is the appropriate or if there is an
7 appropriateness to the blending of Ministry direction
8 and professional judgment and that is...

9 THE CHAIRMAN: I think that is going to
10 be one of the subject topics, I would suggest, in the
11 area of concern policy considerations.

12 I mean, if we are dealing with Appendix 1
13 in the Class EA and it indicates clearly in there that
14 there is some areas of Ministerial discretion, I think
15 that your questions can be put to the witnesses as to
16 what effect this discretion has and how wide it is and
17 what judgment calls have to be made by the players in
18 that process.

19 And that will be the time, I think, you
20 could explore all of that.

21 MR. FREIDIN: Mr. Chairman, Mr. Williams
22 continually goes back and he says: Well, he says, I am
23 talking about professional judgment and the blending of
24 that with Ministry direction and that is the subject of
25 this panel.

1 Everything the Ministry does from soup to
2 nuts, decisions from A to Z, will involve those
3 aspects. So I don't think just by saying: Oh, using
4 the magic words, he can cross-examine on everything in
5 Panel No. 8.

6 MR. WILLIAMS: Mr. Chairman, this panel
7 is the decision-making process, it is central to this
8 whole undertaking. If we don't have the latitude to
9 deal with the decision-making process and unravel the
10 mystery that has been there through Panels 1 and 7
11 because they kept telling us to wait until Panel 8 so
12 that you have a full opportunity to clear these areas.
13 Now, we are being told to wait again until Panel 15.

14 When do we have our opportunity to deal
15 with this central issue, this resource management
16 decision-making process is what this panel is all about
17 and here we are again being constrained in what we can
18 ask with regard to it and it is central, not only from
19 our point of view, but surely to yours.

20 THE CHAIRMAN: Okay. What question
21 specifically do you want to put to the witness in this
22 area?

23 MR. WILLIAMS: All right. The questions
24 I want to put to Mr. Scott, Mr. Chairman, were these:

25 Q. In your opinion as a professional

1 forester, how would you see using this policy to decide
2 if a stand of mature timber with potential as a late
3 winter moose habitat should or should not be accepted
4 as an area of concern?

5 MR. SCOTT: A. As part of the planning
6 team we would have people experienced in identification
7 of moose wintering habitat on that team.

8 In the case of the Bright Sands we had
9 John McNichol on the planning team. In preparation of
10 our background information, we had a values map and
11 included in those values were identification of moose
12 concentration areas and Mr. McNichol had experience in
13 identifying areas of potential winter concentration
14 areas.

15 That is how we would identify those and
16 we would identify those and follow the area of concern
17 planning process if they were identified as -- if we
18 had potential areas of concern.

19 Q. All right. But -- all right. But if
20 you had multiple sites, how would you decide which ones
21 to accept and not to accept?

22 A. I would suggest that as a forester
23 that would not be my decision, I would rely on the
24 expertise of Mr. McNichol and he would have his
25 supervisor to support him, he would have had staff in

1 the field or access to staff comments in the field, he
2 would have access to data that, just in terms of my own
3 job duties, I would not be utilizing, he would have
4 access to the regional wildlife specialist and access
5 to the other scientists.

6 And those are the things in blue
7 essentially that we have discussed in our evidence.
8 And me, as a forester, in terms of winter concentration
9 areas for moose, would rely on the support in the
10 planning team of someone like John McNichol.

11 Q. Does this policy assist you in making
12 those difficult tradeoff decisions between the
13 commercial value of a stand and moose?

14 THE CHAIRMAN: This specific policy?

15 MR. WILLIAMS: Yes.

16 MR. SCOTT: I would say no, but the area
17 of concern planning process helps us to determine how
18 we manage areas of concern.

19 MR. WILLIAMS: Q. The last part of this
20 policy document talks about the process of
21 implementation; is that correct?

22 MR. SCOTT: A. Yes. The process, yes.

23 Q. All right. Then on the second page
24 could you give me your interpretation of the first
25 sentence thereon? And for the purpose of the

1 transcript, could you read that into the record,
2 please.

3 A. I would say that the responsibility
4 for ensuring -- or my interpretation -- okay.

5 "Responsibility for application of the
6 technical aspects of the planning process
7 rests with the party responsible for the
8 production of the timber management plan;
9 i.e., individual forest companies for
10 forest management agreement forests and
11 company management units and MNR for
12 Crown management units."

13 My interpretation, if I can relate specifically to the
14 Bright Sands example, is that we had two foresters from
15 Great Lakes Forest Products who would serve as
16 principal authors who would be responsible for ensuring
17 that the area of concern planning process was followed.

18 Now, that is not to take away the helpful
19 nature of the team in ensuring that comes about.

20 Q. All right. Could you tell me...

21 MR. MARTEL: Could I ask a question
22 there?

23 MR. WILLIAMS: I am sorry, Mr. Martel.

24 MR. MARTEL: Could I ask a question at
25 this stage. You said that foresters, I believe from

1 the company...

2 MR. SCOTT: That's correct.

3 MR. MARTEL: Still someone from the
4 district and ultimately from the region would have to
5 go over that and approve it; would they not?

6 MR. SCOTT: That's correct. It doesn't
7 change the approval process. It is the two principal
8 authors of the specific plan would have been from the
9 company. They gain their support from the planning
10 team and the approval process is the same despite the
11 fact the authors would be from the timber company at
12 that time.

13 THE CHAIRMAN: And that is contained in
14 the following sentence on the policy itself; is it not?

15 MR. SCOTT: Yes.

16 MR. WILLIAMS: Q. What is meant by the
17 quote: "Application of technical aspects" of the
18 process as set out in that first sentence, what is...

19 MR. SCOTT: A. I would interpret that to
20 the application of the area of concern planning
21 process.

22 Q. Do you interpret this policy then to
23 mean that on FMAs and company management units that
24 company foresters have responsibility for applying the
25 technical aspects of the policy?

1 A. I believe that the company foresters
2 in terms of their responsibility in producing the plan
3 must ensure that the area of concern planning process
4 is followed, yes.

5 Q. So they have the responsibility for
6 applying those technical aspects?

7 A. As plan authors.

8 Q. Mr. Scott, the decision as to whether
9 an area should be designated as an area of concern is
10 left primarily to the professional judgment of MNR's
11 highly qualified and experienced staff; is that
12 correct?

13 A. In my understanding of identification
14 of areas of concern -- potential areas of concern
15 determining is a solicitation from a wider variety of
16 sources just than MNR staff and determining...

17 Q. Primarily, though, it emanates from
18 the professional judgment of that staff; does it not?

19 A. I would say that if you look at the
20 number of decisions for identifications of areas of
21 concern, most of those have generated from MNR staff.

22 Q. Would you not agree that it would be
23 helpful if more specific criteria were established on
24 which to determine what is and what is not an area of
25 concern?

1 A. I believe that our staff, and in
2 terms of the consultation process, do a very good job
3 of identifying areas of concern.

4 Q. But would it more helpful if there
5 was more specific criteria; that was the question?

6 A. In my experience I would have to say
7 I don't think it would be more helpful, only in the
8 sense that I don't know what specific criteria you
9 mean. I think our criteria is helpful.

10 Q. I am speaking of the specific
11 criteria and not in generic terms, but as obviously it
12 would relate to the areas of concern.

13 A. I guess if I go back and say we can
14 always improve on our methods of doing things, yes, I
15 would say we can improve, but I am not aware of where
16 those improvements would occur.

17 Q. Well, for example, one could argue
18 that moose use virtually all components of the boreal
19 forest. And then if that were the case, timber -- it
20 would affect timber operations affecting all of that
21 forest and they would affect moose, therefore, the
22 first condition of the definition could basically be
23 applied to the whole northern forest; could it not?

24 THE CHAIRMAN: What definition are you
25 talking about?

1 MR. WILLIAMS: As set out in the EA, Mr.
2 Chairman.

3 THE CHAIRMAN: But definition of what,
4 of the area of concern?

5 MR. WILLIAMS: Yes. All right. Let me
6 put this example together for you.

7 Q. One could argue that moose use
8 virtually all components of the boreal forest,
9 therefore, inevitably if timber operations affect the
10 forest, they will affect the moose, therefore, the
11 first condition of the definition could basically be
12 applied to any northern forest; could it not?

13 THE CHAIRMAN: No, but surely, Mr.
14 Williams, isn't what you are saying is: When you are
15 looking to see whether or not there should be timber
16 operations in a particular geographic area, you would
17 look in that area.

18 First of all, you would identify the area
19 where you want to carry out the timber operations, then
20 you would look in that area to see if you could
21 identify areas of concern and if your area that you
22 wanted to harvest, for example were, you know, five
23 square miles in a particular geographic location, say
24 just north of Thunder Bay, well, you wouldn't be
25 looking necessarily for areas of concern that were

1 2,000 miles away -- not 2,000 but 600 miles away in the
2 boreal forest, because what you are looking at in
3 developing that particular plan, as I understand it,
4 is:

5 Can we develop a plan for the area over a
6 planning period for harvesting taking into account
7 whatever areas of concern may be within that geographic
8 area and then developing the plan taking those things
9 into account.

10 So to do what you are suggesting is to
11 change a definition to say that you have to look at
12 areas of concern whenever you are developing a timber
13 management plan over the whole of the boreal forest,
14 frankly, doesn't make much practical sense, I would
15 suggest.

16 If that is what you are saying. I mean,
17 maybe I misunderstood exactly what you are saying.

18 MR. WILLIAMS: Well, all right, Mr.
19 Chairman.

20 Mr. Chairman, obviously part of your
21 response for concern was taking it to the whole forest.
22 I think in making your example you suggest, for
23 instance, a more concise area, such as a five-square
24 mile area, geographic area, and it would be in that
25 context that there would appear to be the need for

1 total application because of the fact that moose were
2 in all of that five-mile area.

3 I am not suggesting that they, therefore,
4 have to take it to these extremes if they take into
5 account the whole province, so there are some
6 paramaters here, but still they are broad parameters
7 addressing that particular resource by virtue of its --
8 what it is and where it is.

9 THE CHAIRMAN: Well, with respect, I
10 think I have lost you, but why don't you carry on with
11 your questions.

12 MR. WILLIAMS: All right. I am sorry for
13 the pause, Mr. Chairman, but that last -- I am trying
14 to see if I can bring that forward in a better way
15 because it is important and I don't think I have put it
16 to you obviously in a way that you can live with it,
17 and yet -- let me just see if I can put that to you in
18 a -- I want to pursue that point and it will take one
19 question. I will have to refine that. Let me just
20 give that a thought for a moment.

21 MR. STRAIGHT: Mr. Chairman, in that
22 cross-examination by Ms. Swenarchuk, I referred to some
23 socio-economic evaluations of a fishery and Ms.
24 Swenarchuk had asked if that could be introduced.

25 They have managed to find it. The name

1 of the document is the Minnesota Ontario Boundary
2 Waters Fisheries Atlas for Lake of the Woods, Rainy
3 Lake and the Rainy River.

4 This particular document was a joint
5 production of ourselves, the Ministry of Natural
6 Resources, with our Ministry of Tourism and Recreation
7 representatives and we did it in consultation with the
8 State of Minnesota, and basically it provides a summary
9 of the status of the fisheries resources on Lake of the
10 Woods and Rainy Lake.

11 It looks at a socio-economic evaluation
12 of those resources and part of that evaluation included
13 the economics of the tourist industry which was the
14 specific question and, as well, it is a summary of
15 resource management activities.

16 MS. SWENARCHUK: Mr. Chairman, I asked
17 that it be produced as opposed to introduced, so I
18 don't know that you need all that --

19 THE CHAIRMAN: So you don't want it
20 exhibited, you would just like it to --

21 MS. SWENARCHUK: I will need to look at it
22 first and then we will decide that.

23 THE CHAIRMAN: Okay

24 MR. STRAIGHT: Okay.

25 MR. FREIDIN: I suggest it be made an

1 exhibit since he referred to it.

2 MS. SWENARCHUK: Whatever, that's fine.

3 THE CHAIRMAN: You don't have any
4 objections, do you?

5 MS. SWENARCHUK: No.

6 THE CHAIRMAN: Okay. Let's put it in as
7 Exhibit 391. Do you have a short title for that Mr.
8 Straight?

9 MR. STRAIGHT: You can call it Fisheries
10 Atlas, Lake of the Woods/Rainy Lake/Rainy River. Why
11 not Fisheries Atlas.

12 THE CHAIRMAN: Okay. Does it have a
13 date?

14 MR. STRAIGHT: July, '84.

15 THE CHAIRMAN: Thank you.

16 ---EXHIBIT NO. 391: Fisheries Atlas, dated July, 1984.

17 MS. SWENARCHUK: Mr. Chairman, rather
18 than suggest that I do some further cross-examination
19 on this document in this panel, if we can just all
20 agree that it could be the subject of cross-examination
21 when I am dealing with economic issues wherever.

22 THE CHAIRMAN: Very well.

23 MR. STRAIGHT: Was there a number for
24 that?

25 THE CHAIRMAN: 391.

1 MR. STRAIGHT: 391.

2 THE CHAIRMAN: Will you be providing
3 copies for just Ms. Swenarchuk or...

4 MR. FREIDIN: I will make copies for Ms.
5 Swenarchuk. If somebody else wants one...

6 THE CHAIRMAN: I think the Board needs
7 one. Since it has been made an exhibit--

8 MR. FREIDIN: Okay.

9 THE CHAIRMAN: --we can do with one.

10 MS. SWENARCHUK: It is 319, Mr. Chairman?

11 THE CHAIRMAN: 391.

12 MR. FREIDIN: (handed)

13 THE CHAIRMAN: Thank you.

14 Okay, Mr. Williams.

15 MR. WILLIAMS: All right. Maybe this
16 will be more helpful, Mr. Chairman. I will go back, I
17 will rephrase the question to Mr. Scott.

18 Q. Mr. Scott, going with this same
19 example, let's put it this way: Moose use all parts of
20 the boreal forest, a policy in the EA says that areas
21 of concern are areas of value that could -- which could
22 be affected by timber management operations.

23 Therefore, without more detailed
24 criteria, it could be argued that any area should be an
25 area of concern, at least as far as the first part of

1 the definition is concerned; is that not correct?

2 MR. SCOTT: A. All right. First of all,
3 it is the definition and not the policy within the EA
4 document.

5 However, I would agree that because moose
6 use that wide range of habitat and timber management
7 activities occur on that same wide range, an
8 interpretation of the definition would be that the
9 entire range is an area of concern.

10 Now, if I can come back to my specific
11 example and experience in the Bright Sands, we would
12 rely on the wildlife biologists or go to one of those
13 specialists to identify particular areas of concern
14 relative to moose where they feel timber management
15 activities may have effects.

16 THE CHAIRMAN: So you include it within
17 the area of concern procedure, and then within that
18 procedure you would decide whether or not timber
19 management activities could be carried out in a normal
20 fashion, not at all, or with some kind of modification?

21 MR. SCOTT: Essentially, using the moose
22 guidelines and the expertise of the biologists.

23 THE CHAIRMAN: But I guess the key point
24 that you are trying to make, Mr. Williams, is that the
25 whole area is brought into the area of concern

1 procedure?

2 MR. WILLIAMS: Q. And, Mr. Scott, I
3 presume, therefore, has to be the subject matter of
4 tradeoff?

5 MR. SCOTT: A. No, I don't believe so.

6 Q. Potentially could be the subject
7 matter of tradeoff?

8 A. I think we eliminate that by having
9 the biologists zero in on those specific areas where
10 timber management --

11 Q. Doesn't that biologist make those
12 tradeoff decisions, whether there need to be tradeoffs?

13 A. I just don't know if I would call
14 them tradeoff decisions because I am not sure of your
15 definition of tradeoff decisions.

16 THE CHAIRMAN: Well, I think --

17 MR. SCOTT: Makes the decision of whether
18 those activities are going to have impacts.

19 THE CHAIRMAN: Or he can make the
20 decision that, in some cases, there won't be any
21 activity because the particular moose habitat is so
22 important or so crucial in that particular area that
23 timber management activities should not be allowed?

24 MR. SCOTT: I would call that a specific
25 area of concern.

1 THE CHAIRMAN: Well, that's also a
2 tradeoff; is it not?

3 I mean, we are not going to get hung up
4 on terminology, but the idea being is the moose
5 biologist would then determine under the process
6 whether or not activities should be carried out at all
7 or under what conditions, either a normal condition or
8 a modified condition.

9 MR. SCOTT: That's correct.

10 MR. FREIDIN: Mr. Chairman, if you would
11 recall the evidence, it is not the biologist who makes
12 the final decision; the biologist makes the
13 recommendation and then the decisions are made.

14 THE CHAIRMAN: We understand I think the
15 process, but what we are saying is the end result might
16 result in what Mr. Williams is referring to as a
17 tradeoff.

18 MR. WILLIAMS: I am not clear, Mr.
19 Chairman. Is Mr. Freidin putting that in in evidence
20 on behalf of Mr. Scott or...

21 MR. FREIDIN: It is the evidence in Panel
22 No. 7.

23 MR. WILLIAMS: Q. Mr. Scott, the second
24 part of the definition of areas of concern, I suggest,
25 is even more nebulous since no direction is given on

1 how decisions are to be reached, as to whether
2 operations should be modified or not.

3 This decision will depend on the
4 magnitude of the impact and its significance; would you
5 not agree?

6 MR. SCOTT: A. I am sorry, that's a lot
7 to agree to. I don't think the second part of the
8 definition of areas of concern is nebulous, and I do
9 believe that we make correct decisions utilizing the
10 area of concern planning process. And I do believe we
11 make good decisions utilizing all these decision-making
12 tools that we have described in our evidence.

13 Q. Again, in the definition, we are
14 talking about how the decisions are to be reached and
15 which may require modifications to those operations.

16 A. I don't understand how the definition
17 relates to how those decisions come about. My concept
18 is that we -- how those decisions come about, it is by
19 application of the area of concern planning process.

20 Q. Are you saying that the decision
21 would not be dependent in some way on the magnitude of
22 the impact or the significance?

23 A. My understanding, again, is that it
24 is part of the area of concern planning process.

25 Q. All right. Would you agree that, in

1 essence, the determinations made embodies several
2 critical steps in the environmental assessment; namely,
3 inventory, impact, prediction and evaluation?

4 A. Could you repeat the question,
5 please?

6 Q. That the determination embodies
7 several critical steps in the environmental assessment;
8 namely, inventory, impact, prediction and evaluation.

9 MR. FREIDIN: Are you saying the
10 determination in this environmental assessment or are
11 you speaking about it in an environmental assessment,
12 generally?

13 MR. WILLIAMS: I am speaking generally.

14 THE CHAIRMAN: But generally with respect
15 to area of concern issues?

16 MR. WILLIAMS: Yes.

17 THE CHAIRMAN: Are you on that?

18 MR. WILLIAMS: Yes.

19 MR. SCOTT: I would say that the -- and,
20 again, using information instead of inventory because I
21 think it is broader and we discussed that earlier -
22 that determination of areas of concern and whether or
23 not or how we modify those operations requires some, in
24 my estimation, information, some estimate of impact and
25 those elements that we discussed and you discussed.

1 MR. WILLIAMS: Q. And, in your
2 experience, are these steps undertaken in a traceable
3 and accountable manner then in determining areas of
4 concern?

5 MR. SCOTT: A. My understanding of the
6 area of concern planning process is we document
7 virtually everything we do on that area of concern and
8 how it was done, and I think from my perception it is
9 extremely traceable, what we have done.

10 Q. Mr. Scott, could you provide examples
11 of impact prediction tools used to determine areas of
12 concern in the Bright Sands Timber Management Plan that
13 you were involved in?

14 A. I cannot.

15 Q. Why not?

16 A. I don't have them available to me.

17 Q. But they are available?

18 A. I am not even sure if they are
19 available.

20 Q. As the one who was involved, you
21 would know how to get access to those documents?

22 A. Again, I was involved in the early
23 part of the process and I have an idea of how I would
24 access documents. There is no formal approved plan for
25 the Bright Sands Forest, as I understand it, right now.

1 And, again, because of a move, I could probably find
2 out, but I have no direct experience.

3 Q. Can you provide examples of the
4 impact evaluation tools used to determine the areas of
5 concern in that timber management plan?

6 A. I am not really sure what tools you
7 are specifically referring to. We applied Moose
8 Guidelines, we applied the Fisheries Guidelines, and I
9 would assume that built into those guidelines that we
10 applied are the mechanisms to predict effects of
11 actions.

12 And I am really straying into an area
13 where I am unsure when you refer to -- to what you mean
14 by tools for impact evaluation.

15 Q. You must be using some evaluation
16 process when you were doing the plan?

17 A. Yes, we identify values. We would
18 identify values in much the same way as described in
19 the Class EA, and we would follow that area of concern
20 planning process where we felt timber management
21 activities may affect those values. Part of the
22 outcome of that is that through the planning process we
23 might carry on with normal operations or we may modify
24 operations.

25 Q. But, again, you are not relying

1 solely on the professional judgment in --

2 A. We have guidelines available to us,
3 we have other outside scientific expertise, we have all
4 those areas outlined in blue on the overhead.

5 That's why I think that blue overhead is
6 very critical, those are -- I guess if you want to
7 refer to tools, those are the tools that we have
8 available to us.

9 And, no, we are not relying solely on
10 somebody's professional judgment. We are in fact
11 utilizing these tools and, with a planning team the
12 size that we had in the Bright Sands, by the time we
13 add the people that they have consulted with, I would
14 imagine that -- in my experience, I would say that on
15 the Bright Sands we used all those tools.

16 MR. FREIDIN: Mr. Chairman, perhaps we
17 could reserve an exhibit number for this overhead which
18 has the colours on it. Remember the witnesses have
19 been referring just to the yellow and the blue parts
20 and I think it will be useful.

21 THE CHAIRMAN: This already had a
22 previous exhibit number; did it not?

23 MR. FREIDIN: No. It appears in the
24 Panel 8 witness statement at page 89, I believe.

25 THE CHAIRMAN: All right. Let's give it

1 Exhibit No. 392.

2 ---EXHIBIT NO. 392: Overhead slide entitled:
3 Decision-Making Tools in Resource
4 Management.

5 MR. WILLIAMS: Q. Mr. Scott, how are the
6 weights used in these evaluations derived?

7 MR. SCOTT: A. Which weights are you
8 referring to?

9 Q. The weighting techniques as used and
10 discussed earlier by Mr. Straight earlier in the
11 evidence?

12 A. Maybe you can be more specific in
13 your question, then I can help you with an answer. I
14 am not exactly sure what you mean.

15 Q. All right. Let me go back. All
16 right. I had talked -- I had questioned Mr.
17 Straight -- just to refresh your memory, I questioned
18 Mr. Straight about the terms ratings and weights,
19 whether he is familiar with the terms and if they were
20 often used in the evaluation phase of the environmental
21 assessment.

22 I gave -- I suggested two definitions
23 which Mr. Straight accepted, as I recall. I will read
24 them to you again.

25 My understanding of ratings is that they
are the relative measures within a factor and, for

1 example, one cutting pattern may affect moose twice as
2 much as another. In this case, the rating for the high
3 impact pattern would be twice the other with respect to
4 moose. And, again, in the evidence Mr. Straight
5 basically accepted that definition of ratings.

6 And with regard to weights, my
7 understanding of weights is that they are the
8 significance attributed to different factors, and I
9 used the example that one might decide that wood volume
10 was twice as significant as moose and the former would
11 be weighted twice as heavily than the latter in
12 reaching a decision on the management prescriptions for
13 a specific area.

14 Now, it is in that context and it is with
15 those -- do you agree with those definitions?

16 A. I agree that they are part of the
17 picture.

18 Q. They are part of the picture, but do
19 you agree with the definitions as they are applied to
20 part of the picture--

21 A. Yes.

22 Q. --those techniques?

23 A. Yes, I do. And I just missed a word
24 if you don't mind repeating it. Significance
25 attributed to...

1 Q. Was this in the definition for--

2 A. Yes.

3 Q. --weights?

4 A. Yes.

5 Q. My understanding of weights is that
6 they are the significance attributed to different
7 factors. Did you want an example that I applied to it?

8 A. No, that's fine, thanks. Okay. I
9 would agree with those definitions.

10 Q. All right. Then the question I was
11 asking you is how were the weights -- how were the
12 weights used in the evaluations -- how are they derived
13 in these evaluations that we have been talking about?

14 A. Well, I guess I would say weights
15 between which two factors or which multiple factors?

16 Q. What do you mean, between which local
17 factors?

18 A. Well, if we are talking about weights
19 between fish and timber, we applied the Fisheries
20 Guidelines and that's how -- it is essentially how they
21 were determined, by application of those guidelines.
22 That's the way we would have timber management
23 activities relative to fish and the weighting rate to
24 me doesn't come into it.

25 When we deal with moose, again, if we

1 want to draw back to the more specific example of
2 Bright Sands, I believe because of his involvement in
3 the northwest region and their activities in the Bright
4 Sands, maybe Mr. Straight might be able to provide some
5 better information than I could.

6 MR. STRAIGHT: A. Mr. Chairman, I might
7 be able to help and I will leave it up to your
8 discretion and Mr. Williams, if that's appropriate.

9 As Mr. Scott indicated, the Bright Sands
10 plan has not yet been completed. I had recent
11 opportunity in my role as sort of one of the senior
12 administrators for the region to work with the moose
13 biologist and the foresters on the specific issue that
14 Mr. Williams is raising.

15 If it would be helpful I would be
16 prepared to try and provide some information.

17 THE CHAIRMAN: Go ahead.

18 MR. WILLIAMS: Q. All right.

19 MR. STRAIGHT: A. I think what Mr. Scott
20 is basically -- getting into an area here which is the
21 general issue of the fact that normally within MNR we
22 don't get to the basis of actually having to weight
23 factors.

24 I mean, most times, if you look at the
25 way we go about doing business, we either deal with --

1 in the case of moose, it is usually our biologist who,
2 in a sense, become the scientific stakeholders, if you
3 will, for that resource and the application of the
4 guidelines becomes actually quite specific.

5 It tells you, Mr. Williams, how to deal
6 with moose on a range level which is one of the issues
7 you raised earlier. It also tells you how to deal with
8 moose on a very specific basis.

9 Now, we find that quite often, just as
10 lawyers may tend to disagree on points, also do
11 biologists and so also do foresters and normally the
12 way we go about resolving that is: We go through the
13 specific areas of concern planning process and we try,
14 to the best of our ability, to get each of those
15 various professional stakeholder groups, if you will,
16 to indicate the nature of the activity and to gain an
17 appreciation for the potential values at risk. And we
18 do that with a judgment that's based on knowledge and
19 experience as to those -- as to the potential outcomes.

20 Now, the Moose Guidelines and the
21 information policy that accompanies it are actually
22 quite explicit in terms of telling you how to deal
23 generally with situations. And I can think of a
24 tradeoff situation, for example, one that readily comes
25 to mind, where a company was proposing that a major

1 budworm kill area be included as a salvage operation
2 and, in this particular sense, it was a reasonably easy
3 tradeoff situation because obviously the stand was
4 going to die anyway.

5 Its value in terms of moose habitat would
6 have been minimal in the opinion of our experts, and so
7 we proceeded to act. In that situation, the regional
8 director approved that particular plan for a cut that
9 was indeed larger than what is directed in the
10 guidelines.

11 Some of the less tangible things that you
12 don't see here, where you do need professional
13 judgment, is that an individual like John McNicol, for
14 example, who has experience with company operations
15 knows that, in cases -- in this particular type of
16 topography, these kinds of soils, the kind of forest
17 that they are involved with out there, that quite often
18 the company ends up leaving those residual stands
19 within a cut which will satisfy the intent of the moose
20 guidelines in terms of breaking it up and providing.
21 Cover in a general range concept for moose

22 Mr. McNicol, having had that kind of
23 local experience and knowledge, is quite prepared to
24 accept a cut which may appear to be larger than the
25 guidelines.

1 So you get those kinds of judgments made
2 continually at a working level basis and we do it, as I
3 say, going through that area of concern planning
4 process where we consider and identify alternatives, we
5 look at the environmental analysis of the alternatives
6 based on the professional judgment of our local people
7 and other expertise they may require.

8 Now, we select the preferred or most
9 acceptable alternative and we provide in the plan the
10 supporting rationale for that.

11 So I guess in that scenario where I
12 suggested that there was a larger than normal cut, my
13 regional director would have wanted to know why that
14 cut was so large and would have expected to see that
15 rationale for that decision within the plan. In that
16 context, Mr. Scott is referring to the decisions being
17 traceable.

18 But I hope that provides you, sir, with a
19 better idea of just how we go about making those
20 decision utilizing the Moose Guidelines.

21 Q. All right.

22 THE CHAIRMAN: Mr. Williams, we are
23 proposing to take a short break--

24 MR. WILLIAMS: I was just going to
25 suggest that, Mr. Chairman.

1 THE CHAIRMAN: --and then coming back.
2 We will take a break for 20 minutes and then we will
3 come back and finish off about another hour or so, and
4 then at that point, adjourn for the day and people can
5 have lunch before they have to leave Thunder Bay.

6 MR. WILLIAMS: Thank you.

7 THE CHAIRMAN: So we will be back in 20
8 minutes.

9 ---Recess taken at 12:00 p.m.

10 ---Upon resuming at 12:25 p.m.

11 THE CHAIRMAN: Thank you. Be seated,
12 please.

13 Mr. Williams, we are going to go for
14 about another three quarters of an hour, then we will
15 break for the day.

16 MR. WILLIAMS: Okay.

17 Q. Mr. Scott, what role did the District
18 Land Use Guideline target have in helping you make
19 these tradeoff decisions for areas of concern?

20 MR. SCOTT: A. We need to come back to
21 what tradeoff decisions. I hope that what we have said
22 is that we implement guidelines in terms of how we
23 approach area of concern planning, the area of concern
24 planning process.

25 Mr. Straight outlined an area where there

1 may have been a tradeoff in terms of budworm, but I am
2 not exactly sure what tradeoff decision you are
3 referring to.

4 Q. Well, I don't want to get into the
5 specifics. I thought from what Mr. Straight had said
6 that you had no difficulty with responding to that.

7 But let me again -- let's go back. We
8 will use the example that we used earlier when we were
9 talking about definitions of gradings and weights. I
10 use the example of -- well, let me just give you that
11 whole question that I had used with regard to weighting
12 which the example there was:

13 One might decide that wood volume was
14 twice as significant as moose and the former would be
15 weighted twice as heavily as the latter in reaching a
16 decision on the management prescriptions for a specific
17 area.

18 It was in that context that I would ask
19 you how the District Land Use Guideline targets would
20 help in making those decisions for the AOCs?

21 A. I think what I was trying to suggest
22 is that although weights can be part of decision-making
23 in terms of areas of concern, and I think the example
24 of budworm damaged timber is an excellent example, I
25 wasn't suggesting that weights and weighting and rating

1 was always the decision in areas of concern.

2 That is why I have trouble answering what
3 tradeoff decision the District Land Use Guidelines
4 would have a role in playing because I am not exactly
5 sure what tradeoff examples you mean.

6 Q. Well, I gave you the example. Can
7 you use that to work with?

8 A. In a hypothetical example, where wood
9 value was...

10 Q. Wood values are twice as significant
11 as moose and the former would be weighted twice as
12 heavily as the latter in reaching a decision on the
13 management prescriptions for a specific area. That was
14 the example I gave you.

15 A. I would suppose if, in a given area,
16 wood value was twice as moose that is -- I would come
17 to that decision in the hypothetical world based on
18 objectives in District Land Use Guidelines using one of
19 the means of information.

20 THE CHAIRMAN: But surely that isn't the
21 way it works in the real world; is it, Mr. Scott,
22 because if you take that hypothetical, wherever you
23 want to cut, if a moose value was involved, the wood
24 value would automatically win out without any
25 consideration of moose?

1 MR. SCOTT: No, I don't think it would,
2 and I think in the real world too, in my experience
3 with the real world decisions we don't come down to
4 that kind of level of decision; it is ironed out by
5 applying the guidelines, using professional expertise
6 and all those things we talked about.

7 What you work out is an acceptable
8 approach to timber management planning activities that
9 is compatible to all values. That is why I have
10 trouble just saying wood is two times moose. How is
11 that...

12 THE CHAIRMAN: That is what I am
13 suggesting, in the real world it would seem that that
14 is not the way weighting is applied in terms of timber
15 management planning.

16 MR. SCOTT: Yes, that is my
17 understanding.

18 MR. WILLIAMS: Q. Mr. Scott, can you
19 make tradeoff decisions without explicitly or
20 implicitly weightin resource benefits?

21 MR. SCOTT: A. I think, if we draw back
22 to that example of the spruce budworm killed timber,
23 when we make an application to the regional director to
24 amend a plan to allow for salvage of an area which
25 would not comply with the intent or not comply with the

1 application of the Moose Guidelines, we do not
2 necessarily have to weight the relative ranking of
3 moose in that circumstance.

4 So, no, you don't need to measure all the
5 weights and ratings relative to that kind of a tradeoff
6 decision and that kind of a tradeoff decision is what I
7 have most experience in making.

8 Another example might be in terms of
9 salvaging fire damaged timber or, you know, that kind
10 of thing where we don't go out and measure the relative
11 weight or importance of moose, knowing that the habitat
12 is going to probably be destroyed anyway via damage to
13 that timber.

14 Q. Isn't there an implicit weighting
15 therein of what you are telling us?

16 A. There may be an implicit weighting
17 but, in my experience, we don't measure that relative
18 value.

19 Q. Mr. Scott, the next question I want
20 you to relate this specifically to your Bright Sands
21 TMP that you worked on.

22 Would you say that the derivation of
23 these weights that you have been describing here was
24 traceable to members of the public based on published
25 documentation?

1 MR. FREIDIN: He said he doesn't measure
2 that weight.

3 THE CHAIRMAN: Well, Mr. Freidin, perhaps
4 we can clear this up. If you don't mind for a moment,
5 Mr. Williams.

6 MR. WILLIAMS: Yes.

7 THE CHAIRMAN: Does the Ministry have a
8 weighting system whereby it takes specific values and
9 applies a specific weight across the Board to those
10 values?

11 MR. SCOTT: Not in my experience.

12 THE CHAIRMAN: Okay. And, therefore, if
13 it doesn't have that kind of matrix, when you are
14 making these management decisions, you don't apply
15 weighting in that context?

16 MR. SCOTT: That's correct.

17 THE CHAIRMAN: Or do you?

18 MR. SCOTT: No, we don't.

19 THE CHAIRMAN: You don't.

20 MR. SCOTT: In my experience we don't.

21 THE CHAIRMAN: Okay. So, therefore, it
22 appears, Mr. Williams, that in arriving at these timber
23 management planning plans the decision-making process
24 doesn't involve the weighting in the context in which
25 you are describing.

1 MR. WILLIAMS: Well, that may be so, Mr.
2 Chairman, but as Mr. Scott said, there is an implicit
3 weighting involved in that.

4 THE CHAIRMAN: Well, if there is an
5 implicit weighting, what is the basis of that implicit
6 weighting; it is not some chart somebody could look at
7 and say that moose is two; wood is one; or fishing is
8 three; and something else is zero.

9 I mean, I think we understand, from the
10 evidence, that the implicit weighting is an end product
11 of all of the considerations and expertise and
12 scientific information and consultation with the public
13 and all of these things that go into the public
14 judgment included and, at the end of that, a decision
15 is made and, in some cases, tradeoffs are warranted.

16 MR. SCOTT: That is exactly what we are
17 trying to present in this panel I believe.

18 MR. WILLIAMS: But again, Mr. Scott, Mr.
19 Chairman, I would remind you that the context in which
20 I was raising that was in the context of the question
21 as to how the weights - whether they are explicit or
22 implicit - are traceable to members of the public based
23 on what appears now to be no published documentation?

24 THE CHAIRMAN: Okay. I guess the
25 answer -- or the question, Mr. Scott, would be

1 probably: How can the public trace back the way in
2 which the management decision was made? It may have
3 nothing to do with weighting in that context.

4 MR. SCOTT: Okay. If a member of the
5 public wants to come in to see how a decision was made
6 or arrived at for a particular set of circumstances...

7 THE CHAIRMAN: Is this your question, Mr.
8 Williams, essentially?

9 MR. WILLIAMS: Yes.

10 THE CHAIRMAN: Okay. Let's get the
11 answer to that one.

12 MR. SCOTT: Then a member of the public
13 would come into the Ministry office and look at the
14 timber management planning plan and, under the areas of
15 concern planning process, we have that complete
16 documentation of the information that went into that
17 decision.

18 THE CHAIRMAN: What does that include in
19 terms of the documentation?

20 MR. SCOTT: Okay. I think we have some
21 specific requirements in the area of concern planning
22 process.

23 THE CHAIRMAN: I know we are going to
24 deal with this in 15, but let's get it out on the table
25 now and maybe this will help Mr. Williams.

1 MR. SCOTT: Just give me a minute, I will
2 find it.

3 THE CHAIRMAN: Okay. Mr. Straight, if
4 you want to assist in this area, go right ahead.

5 MR. STRAIGHT: Sir, I guess the most
6 simple thing again is to refer to Appendix 1 of the
7 Class EA Document and basically there is two, four,
8 five -- five and a quarter pages that deal with that
9 particular method.

10 THE CHAIRMAN: Okay. And we don't want
11 you to review this in detail because we are going to
12 deal with this in a later panel, but can you briefly -
13 perhaps in your own words - just describe some of the
14 methods by which these decisions can be traced if some
15 member of the public walked in and said:

16 How did you arrive at this particular
17 decision?

18 MR. STRAIGHT: Actually right near the
19 end it is fairly explicit, sir, it says:

20 "The selection of the preferred most
21 acceptable modified management
22 prescription for each specific area of
23 concern or type of associated area of
24 concern is recorded in the supplementary
25 documentation which must accompany the

1 timber management planning plan. That
2 supplementary documentation will describe
3 how the planning procedure was prescribed
4 And the supporting rationale for the
5 selection. That supporting rationale
6 will explain the tradeoffs which were
7 required and the consideration of
8 comments and submissions from interested
9 external participants in those tradeoffs.
10 Where applicable, the preventative and
11 mitigative measures for which firm
12 commitments can be made, will also be
13 described."

14 THE CHAIRMAN: Okay, Mr. Williams, page
15 5, Appendix 1, lines 20 through 26.

16 MR. FREIDIN: And over the page.

17 MR. WILLIAMS: Page 5?

18 MR. FREIDIN: And 6.

19 THE CHAIRMAN: I don't have a page 6.

20 MR. WILLIAMS: Oh step 3, is that what we
21 are talking about?

22 THE CHAIRMAN: I thought you were talking
23 step 3; are you not?

24 MR. FREIDIN: That's right. My copy goes
25 over to page 5 and 6.

1 THE CHAIRMAN: We don't have a 6.

2 MRS. KOVEN: We have got Appendix 3.

3 MR. WILLIAMS: Yes, there is one in ours,
4 Mr. Chairman.

5 THE CHAIRMAN: Page 6.

6 MRS. KOVEN: And that is Appendix 2. Am
7 I in the wrong appendix?

8 MR. WILLIAMS: The one that was amended
9 June, 1987. Oh yes, I am sorry, you are right. I am
10 in the wrong appendix.

11 MR. FREIDIN: I think one day, Mr.
12 Chairman, we should probably all number our appendices
13 consecutively.

14 THE CHAIRMAN: Okay, Mr. Williams, do you
15 see where it says: "The supporting rationale will
16 explain..." on page 6, lines 3 through 8?

17 MR. WILLIAMS: Yes, I see those, Mr.
18 Chairman.

19 THE CHAIRMAN: Okay. Now, I take it
20 those are the answers of MNR as to how you would
21 explain how those management decisions are arrived at,
22 supported comments are received from the public, et
23 cetera, with respect to areas of concern 2.

24 MR. SCOTT: That's correct, Mr. Chairman.

25 MR. FREIDIN: I can indicate that there

1 is no formula, when you look at these plans that tells
2 you exactly what to look at. There is no cookbook
3 approach and you will see that they indicate what they
4 considered and how they are implemented. That is the
5 way it should be.

6 THE CHAIRMAN: Mr. Williams, I think it
7 is more productive to talk in terms of this than in
8 terms of weighting because that doesn't appear to be
9 the approach that they use.

10 MR. WILLIAMS: I think that particular
11 matter we will pursue it further in Panel 15.

12 THE CHAIRMAN: Thank you.

13 MR. WILLIAMS: Q. Mr. Scott, I am having
14 some difficulty connecting Figures 2.1-1 and 2.1-2 in
15 this sense: Where does the public have input into the
16 timber management production process? Could you relate
17 those public participations to the specific items in
18 2.1-1?

19 THE CHAIRMAN: Well...

20 MR. FREIDIN: You go through this step by
21 step. This is Panel 15, we are going to take you step
22 by step-by-step...

23 THE CHAIRMAN: Okay. Why don't we just
24 get a brief overview. Can you do that for us in a very
25 brief overview?

1 MR. SCOTT: To my limited experience.

2 THE CHAIRMAN: In your own experience.

3 MR. SCOTT: My understanding, sure.

4 THE CHAIRMAN: Right.

5 MR. SCOTT: I guess step one and -- well,
6 first of all, there is invitation to participate that
7 we would put in the public notice, that is on figure
8 2.1-2 and some of these things occur simultaneously.

9 MR. WILLIAMS: Q. I am sorry, I just
10 don't want to lose you. Step one, you are referring to
11 Figure 2.1-1 and you are relating -- referring to that
12 chart now. Okay.

13 MR. SCOTT: A. As I indicated earlier, I
14 have trouble describing the process without looking at
15 both those charts simultaneously.

16 Q. You can look at them, by all means.
17 I just want you to relate the second chart to the first
18 one. At which point in Chart 1 does Chart 2 kick in?

19 A. Okay. In step 1 one can be an author
20 of a plan, can be assembling background information.

21 Prior to that first information to
22 participate there is such things as analysis of the
23 past plan and just compilation of data, et cetera, of
24 what has occurred in the previous period. In my
25 understanding of the process, the actual planning

1 process initiates with that public notice, that
2 invitation to participate.

3 Q. And you are saying that that is right
4 in step 1 then? That is not part of your assembly;
5 that is background information.

6 A. Excuse me. In terms of the actual
7 planning process - and I think it would be easier for
8 me just to refer to Figure 2.1-2 - the actual specific
9 technical initiation of the process, in my
10 understanding, starts with that public notification;
11 that is, the invitation to participate to the public.

12 That is not to say that there are not
13 elements of step 1 that occur prior to that, because so
14 much of that background information is compiled before
15 you send out invitation to participate, however,
16 collecting that information specifically for the
17 specific timber management planning plan under
18 preparation will come -- would start really about the
19 same time that those public notices are coming back,
20 people have responded to your invitation to
21 participate. That is part of your background
22 information.

23 You would make up a large mailing list so
24 that anything relating to the planning of that
25 management units -- mail it out, it could go to a wide

1 variety of audience, people who are specifically
2 interested and have identified.

3 So that is where step 1 would come in.

4 Q. All right.

5 A. I am just going to review some
6 material for a moment, if I can take a minute.

7 Q. Mm-hmm.

8 A. We then provide a finished form of
9 the background information to date and, again, if I can
10 relate to the Bright Sands Forest we had a values map
11 that we prepared based on our current information as we
12 had from a wide variety of sources, maps of the areas,
13 moose concentration areas, et cetera.

14 He went to the public in an information
15 centre. One of the primary purposes from my
16 perspective as forest manager is to ensure that we
17 solicit more information before we write a draft plan
18 or start into the planning process of step 2 and
19 beyond. So that we deal with the most full information
20 that we can before we start into step 2 and on down
21 through the process.

22 Also in Figure 2.1-2 that information
23 centre is specified and on the right-hand side of the
24 page, slightly lower, are the words "production of
25 draft timber management plan, normally 60 days" and

1 that draft plan is produced after we have had
2 opportunity for as much information to be put into that
3 draft plan as possible.

4 Q. All right.

5 A. Okay. And in terms of the
6 preparation of the plan, that is when we would --
7 excuse me, I think I am getting myself -- just in my
8 experience, I think at the information centre we do
9 draw some objectives of the management units for the
10 public to see what some of the objectives -- potential
11 objectives are, again, trying to get information back
12 and forth.

13 It is very difficult for me to relate
14 specifically, but we are exchanging information in that
15 process as well.

16 Step 2, 3 and 4 are essentially done as a
17 production of the draft plan based on all the
18 information, and after we have a draft plan, there is
19 internal MNR review and there is public notice and the
20 public gets to review that draft plan as well.

21 Q. All right. Mr. Scott, if I could
22 interrupt just for a moment. I was hoping that maybe
23 you would have been able simply to say that the second
24 chart relates to, for example, step 1 and then sub-2
25 and step 2 and sub-3 and step 3 and so on.

1 But I see it is going to take quite a bit
2 more than that to do it, so maybe we will come back to
3 that detail later on. I think that...

4 THE CHAIRMAN: In panel 15?

5 MR. WILLIAMS: Yes.

6 THE CHAIRMAN: Okay.

7 MR. WILLIAMS: Q. So maybe I could
8 capsulize it at this stage. I thought we could do it
9 in the way that I had envisaged it, but we can't, so
10 can I simply put this question to you:

11 Would the public have an opportunity to
12 comment prior to the selection of the preliminary area
13 of concern?

14 MR. SCOTT: A. I would say very much so
15 in my estimation.

16 Q. Where.

17 THE CHAIRMAN: Where? How?

18 MR. SCOTT: There are really two areas;
19 one is that first public notice, that invitation to
20 participate and a person who understands the process
21 from the public would have an opportunity there and
22 also the first information centre.

23 THE CHAIRMAN: Thank you.

24 MR. WILLIAMS: All right.

25 Q. Mr. Scott, the next step involves

1 setting out the primary access system; is that correct?

2 MR. SCOTT: A. We are back on 2.1-2?

3 Q. Figure 2, correct, yes.

4 A. Step 3.3, determination of type and
5 general location of primary access systems.

6 Q. Yes, right. Okay.

7 Q. Certainly as we understand it, I
8 presume you do.

9 Access planning is an extremely
10 complicated process and, for example, if -- I will use
11 an example that leads us to this conclusion and I want
12 you to agree with this or otherwise.

13 In cases where the Board has had hearings
14 lasting a month or so dealing with roads that are less
15 than three or four kilometres long, even though they
16 are within approved rights-of-way there is an example
17 of, you know, some of the complexity that might be
18 involved in access planning.

19 A. I agree that access planning is a
20 critical part of the process.

21 Q. All right. Given the complexity of
22 this task and the other issues that I will be
23 discussing with you, I think as long as you recognize
24 that complexity, we will come back to that later.

25 Step 4 is the last step in the TMP

1 process and this step leads us to the five-year
2 operating plan; is that correct?

3 A. The five-year area of operations, I
4 don't think we refer to it as an operating plan itself.

5 Q. All right. Now, in our mind step 4
6 is where there is - to to use the common vernacular -
7 where the real action is at, it is at this step that
8 specific decisions are made as to what is going to be
9 done on the ground within the general framework of the
10 20-year plan.

11 Do you agree that step 4 is connected to
12 step 2 through the MAD calculation?

13 A. I would agree that it is connected to
14 step 2 in the MAD calculation, but I don't want to
15 leave the impression that that is the only place it is
16 connected to.

17 Q. But there is the connection?

18 A. Yes.

19 Q. The first task of step 4 has been
20 discussed in previous panels, as Mr. Freidin has been
21 telling us time and time again and consists basically
22 of a series of mechanical calculations.

23 MR. FREIDIN: Whoa, whoa. No one said --
24 would you repeat that, please? I don't think that is
25 accurate. Mr. Freidin said what?

1 MR. WILLIAMS: I think that -- all right,
2 all right. Let me just put it to you this way. I will
3 try, Mr....

4 Q. The first task of step 4, it has been
5 referred to in previous panels, and it consists
6 basically, as we understand it, of a series of
7 mechanical calculations; would you agree?

8 MR. SCOTT: A. The first -- of step 4.

9 Q. Yes, estimation of amount of area to
10 be selected for harvest.

11 A. In the context of how it has been
12 referred to before, without having reviewed the
13 material, I would say I would agree that what has been
14 presented before is probably an accurate picture of
15 those calculations to select the amount of area.

16 MR. FREIDIN: Mr. Chairman, we are going
17 to get confused if we allow this to keep going. You
18 know, the areas which are selected - and if I'm giving
19 evidence, the evidence will come through this to
20 corroborate what I am saying - the area which is
21 selected in that particular item is the amount of area
22 of any particular working group which is selected out
23 of the total amount available as indicated in the total
24 amount being indicated in the MAD calculation for an
25 FMA working group.

1 When we are talking about these terms we
2 have to be very selective, if I can use that word, and
3 very careful and, with no disrespect to Mr. Williams, I
4 think he is using these words in a colloquial way.

5 Mr. Scott is not up here as an expert in
6 the process -- of all elements of this process and I
7 just think it is going to make things more difficult.
8 We are not going to be facilitating the task of this
9 Board if we keep gowing through this thing step by
10 step.

11 THE CHAIRMAN: Well, Mr. Williams, we
12 have dealt to some extent on how the areas are to be
13 selected in previous evidence, and we have got some
14 evidence on that. We are going to get it in more
15 detail when we go through the planning process itself.

16 Other than confirming that these steps in
17 fact take place and form the steps in the planning
18 process from this witness, how far can you go on some
19 of these questions without getting into the actual
20 evidence as to how you estimate the amount of area to
21 be selected and this kind of thing?

22 I mean, I thought we agreed that we are
23 going to deal with it in a general context.

24 MR. WILLIAMS: Yes, yes, yes, yes. I
25 don't...

1 THE CHAIRMAN: And yet you can't deal
2 with it in a general context.

3 MR. WILLIAMS: You realize there is a
4 fine line, Mr. Chairman. We are trying to stay within
5 the proper side of the line.

6 Let me -- just give me a moment and see
7 if there is anything further I can do here. I will
8 just review the following questions here. Just give me
9 a minute.

10 THE CHAIRMAN: I mean, if your questions
11 are of a general nature without having to get into the
12 detail of how these decisions are made; meaning going
13 in some cases through formulas and things like that,
14 this isn't the appropriate panel I don't think to deal
15 with that.

16 MR. WILLIAMS: We are certainly trying to
17 keep it at the general level, we are making every
18 effort to do so.

19 Just give me a minute, Mr. Chairman. I
20 just want to review some following questions to see
21 whether I have to do some streamlining to fit those
22 parameters.

23 Well, Mr. Chairman, certainly on this
24 particular point we are at here, again, we have --
25 throughout we are trying to keep our questions as

1 general as possible to avoid this problem that you keep
2 reminding us of, bring us back to and in reviewing our
3 series of questions, I think that, again, we are simply
4 trying to get at the general process to get at this
5 blending element between professional judgment and the
6 decision tools.

7 It is in that general context that we are
8 trying to unfold and remove any of the mystery that is
9 presented to us in that general process.

10 THE CHAIRMAN: Well, Mr. Williams...

11 MR. WILLIAMS: Trying to keep these
12 questions in that vein, but I have a few left on this
13 particular area. Then we move on we are very close to
14 the end of the whole process, but it will take a few
15 more questions.

16 THE CHAIRMAN: Okay. Well, put your
17 questions, but I really feel, with great respect, that
18 if you want to ask this panel: Do these steps --
19 individual sub-steps in step 4 require a blend of
20 professional judgment and a use of all of the tools
21 that we have had heard about in this panel, you can put
22 that kind of question to them and they can indicate
23 what kind of tools might be required, for instance, in
24 reaching the types of decisions set out in those
25 sub-steps. That is, as I understand it, one of the

1 major purposes of this panel.

2 But to go into each of the sub-steps as
3 to the detail surrounding the mechanics of how the
4 decision is reached, I think, is beyond this particular
5 panel and will be dealt with more specifically in Panel
6 15 or subsequent panels and with elements.

7 For instance, determination of operations
8 for instance under sub-5, when you are dealing with
9 harvest, I would suspect that there are questions on
10 that that you can ask of Panel 10 in detail as to how
11 they reach their decisions in questions relating to
12 harvest. I would imagine that the participants in
13 Panel 10 will be able to answer you, not only in the
14 general context but also in the specific context at the
15 field working level and it would seem to the Board, Mr.
16 Williams, that you could ascertain this blend, as you
17 put it, of professional judgment out of answers
18 provided by some of the specific panels.

19 I mean, I think we have heard to this
20 point in time from this panel that there are a variety
21 of factors that go into the decision-making, some of it
22 being expertise -- based on expertise of the Ministry
23 and training and things like that. But beyond going
24 into the generalities of that statement, I don't see
25 how you can keep it general without trying to get into

1 some very specific detail about each of these
2 sub-topics.

3 However, ask the questions that you have
4 in mind. If they are along the lines in a general
5 context, let's see if we can get the answers out of
6 this panel at this time.

7 MR. WILLIAMS: Thank you, Mr. Chairman,
8 for your consideration.

9 Q. Now, just a second. We lost our
10 train of thought.

11 THE CHAIRMAN: If it would be more
12 helpful, Mr. Williams -- if you want to proceed right
13 now that is fine. If it would be more helpful, we
14 would be willing, I think, to break now and have you
15 continue on--

16 MR. WILLIAMS: Wednesday morning?

17 THE CHAIRMAN: --Wednesday morning and
18 pick up from here. I realize that the Board's comments
19 is requiring some reorganization of your material and,
20 accordingly, you may wish the additional time to
21 consider what the Board has said and to reorganize your
22 stuff and start in on Wednesday morning.

23 MR. WILLIAMS: I think that would be
24 helpful, Mr. Chairman. Yes, it would.

25 THE CHAIRMAN: Okay. I think the Board

1 will adjourn now until Tuesday afternoon at 1:00 p.m.

2 Thank you.

3 ---Whereupon the hearing adjourned at 1:10 p.m., to be
4 reconvened on Tuesday, February, 7th, 1989,
5 commencing at 1:00 p.m.

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